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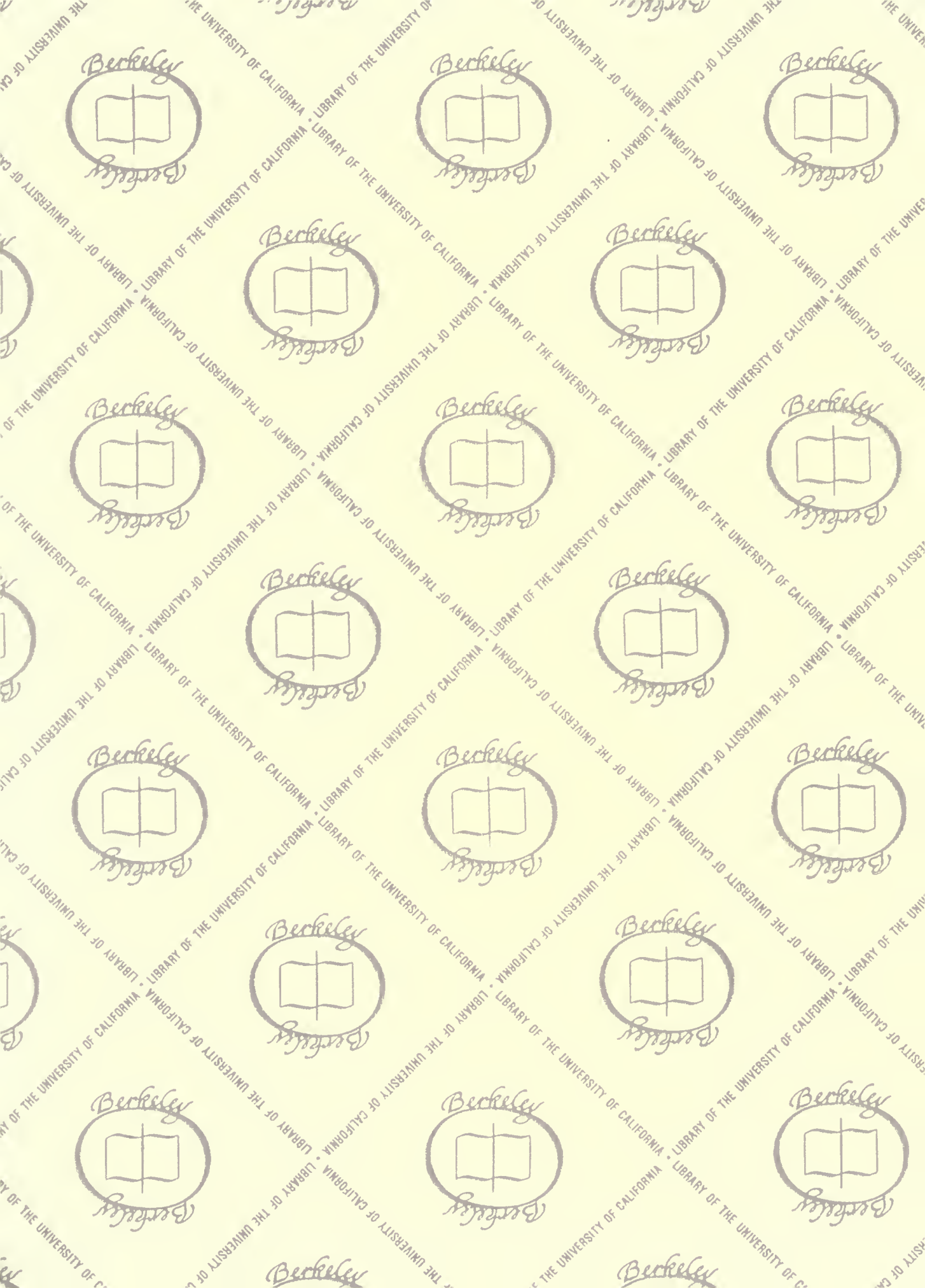
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Governmental History Documentation Project

Goodwin Knight/Edmund Brown, Sr. Era

CALIFORNIA LEGISLATIVE LEADERS, VOLUME II

Bruce F. Allen	California Oil and Water, and the Politics of Reform, 1953-1960
Hugh M. Burns	Legislative and Political Concerns of the Senate Pro Tem, 1957-1970. With an Introduction by Richard E. Combs
Luther H. Lincoln	Young Turk to Speaker of the California Assembly, 1948-1958
Joseph A. Rattigan	A Judicial Look at Civil Rights, Education, and Reapportionment in the State Senate, 1959-1966
Bruce W. Sumner	California State Assemblyman and Chairman of the Constitution Revision Commission, 1964-1970

Interviews Conducted by
Amelia R. Fry, Gabrielle Morris,
James H. Rowland, Sarah Sharp
1977-1980

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PREFACE

Covering the years 1953 to 1966, the Goodwin Knight-Edmund G. "Pat" Brown, Sr., Oral History Series is the second phase of the Governmental History Documentation Project begun by the Regional Oral History Office in 1969. That year inaugurated the Earl Warren Era Oral History Project, which produced interviews with Earl Warren and other persons prominent in politics, criminal justice, government administration, and legislation during Warren's California era, 1925 to 1953.

The Knight-Brown series of interviews carries forward the earlier inquiry into the general topics of: the nature of the governor's office, its relationships with the legislature and with its own executive departments, biographical data about Governors Knight and Brown and other leaders of the period, and methods of coping with the rapid social and economic changes of the state. Key issues documented for 1953-1966 were: the rise and decline of the Democratic party, the impact of the California Water Plan, the upheaval of the Vietnam War escalation, the capital punishment controversy, election law changes, new political techniques forced by television and increased activism, reorganization of the executive branch, the growth of federal programs in California, and the rising awareness of minority groups. From a wider view across the twentieth century, the Knight-Brown period marks the final era of California's Progressive period, which was ushered in by Governor Hiram Johnson in 1910 and which provided for both parties the determining outlines of government organization and political strategy until 1966.

The Warren Era political files, which interviewers had developed cooperatively to provide a systematic background for questions, were updated by the staff to the year 1966 with only a handful of new topics added to the original ninety-one. An effort was made to record in greater detail those more significant events and trends by selecting key participants who represent diverse points of view. Most were queried on a limited number of topics with which they were personally connected; a few narrators who possessed unusual breadth of experience were asked to discuss a multiplicity of subjects. Although the time frame of the series ends at the November 1966 election, when possible the interviews trace events on through that date in order to provide a logical baseline for continuing study of succeeding administrations. Similarly, some narrators whose experience includes the Warren years were questioned on that earlier era as well as the Knight-Brown period.

The present series has been financed by grants from the California State Legislature through the California Heritage Preservation Commission and the office of the Secretary of State, and by some individual donations. Portions of several memoirs were funded partly by the California Women in Politics Project under a grant from the National Endowment for the Humanities, including a matching grant from the Rockefeller Foundation; the two projects were produced concurrently in this office, a joint effort made feasible by overlap of narrators, topics, and staff expertise.

The Regional Oral History Office was established to tape record autobiographical interviews with persons significant in the history of California and the West. The Office is under the administrative direction of James D. Hart, Director of The Bancroft Library, and Willa Baum, head of the Office.

Amelia R. Fry, Project Director
Gabrielle Morris, Project Coordinator

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Project Interviewers

Malca Chall
Amelia R. Fry
Gabrielle Morris
James Rowland
Sarah Sharp
Julie Shearer

Special Interviewers

Eleanor Glaser
Harriet Nathan
Suzanne Riess
Miriam Feingold Stein
Ruth Teiser

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GOODWIN KNIGHT-EDMUND BROWN, SR. ERA ORAL HISTORY PROJECT
(California, 1953-1966)

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Button, A. Ronald, *California Republican Party Official and State Treasurer of California, 1956-1958.*
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Mosk, Stanley, *Attorney General's Office and Political Campaigns, 1958-1966.*
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Sumner, Bruce, *California State Assemblyman and Chairman of the Constitution Revision Commission, 1964-1970.*

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Manolis, Paul

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Christopher, George, *Mayor of San Francisco and Republican Party Candidate.*

Weinberger, Caspar W., *California Assembly, Republican State Central Committee, and Elections, 1953-1966.*

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Bonderson, Paul R., *Executive Officer, Regional and State Water Pollution and Water Quality Control Boards, 1950-1966.*

Brody, Ralph M., *Revising Legislation and Building Public Support for the California Water Project, 1959-1960; Brief History of the Westlands Water District.*

Brown, Edmund G., Sr., *The California Water Project: Personal Interest and Involvement in the Legislation, Public Support, and Construction, 1950-1966.*

Goldberg, B. Abbott, *Water Policy Issues in the Courts, 1950-1966.*

Warne, William E., *Administration of the Department of Water Resources, 1961-1966.*

BRUCE F. ALLEN

Regional Oral History Office
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Governmental History Documentation Project

Goodwin Knight/Edmund Brown, Sr. Era

Bruce F. Allen

CALIFORNIA OIL AND WATER, AND THE POLITICS OF REFORM, 1953-1960

An Interview Conducted by
Sarah Sharp
in 1980

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INTERVIEW HISTORY

Along with the other members of the California legislature interviewed for this project documenting the administrations of Governors Goodwin J. Knight and Edmund G. Brown, Sr., Bruce F. Allen was in a key position to participate in, and to observe, debates critical to the state's future. Allen, now a superior court judge in Santa Clara County in charge of the probate department, was a Republican assemblyman from San Jose between 1953 and 1962.

In conducting research on the general topic of the oil industry and California state politics during the Knight-Brown era, this interviewer learned that in 1955 Bruce Allen had sponsored a bill which would return to the state certain revenues from oil drilling in tidelands near Long Beach. This bill was the basis for the compromise bill which became law in 1956. Since 1911, when the City of Long Beach had been granted the right to receive these revenues itself, the city had developed its harbors and other areas with the revenues. His sponsorship of this and other natural resources legislation, as well as his membership on several assembly committees (Ways and Means; Conservation, Planning and Public Works; and, Manufacturing, Oil and Mining Industry), allowed Allen to gain great insight into the position of the oil industry in California.

For many reasons, then, Bruce Allen was the logical interviewee for the subject of the progress of state regulation of the oil industry during the Knight-Brown era. Judge Allen eagerly accepted this idea for an interview. The single taping session was held early in the afternoon of 20 February 1980, in Judge Allen's chambers at the courthouse in San Jose. Law books and journals lined the shelves of several walls of his office; photographs of lively children and grandchildren brightened the setting. The judge's desk was stacked high with files of pending cases, reminders of heavy present court responsibilities.

Judge Allen opened the interview by responding to a few questions about his youth. With the brief time allowed us for a complicated discussion, both interviewer and interviewee desired to move quickly to the economic and political questions involved in oil industry regulation. During the interview, he leafed through the various assembly oil bills sent to him in advance, and there was only time to highlight some of these major bills. At the end of his interview, we touched on the issues of the Feather River Project, and the creation of the Department of Water Resources in 1956.

In his thorough review of the edited transcript, Judge Allen took the time to answer additional questions which this interviewer-editor had appended to the text. This interview documents Bruce Allen's active participation in passing major oil industry legislation, and his able summary of the politics involved in that process.

Dr. Sarah Sharp
Interviewer-Editor

Regional Oral History Office
University of California at Berkeley
7 October 1980

Regional Oral History Office
Room 486
The Bancroft Library
University of California
Berkeley, California 94720

Governmental History Documentation Project Interviewee

Your full name Irma F Allen

Date of birth Aug 17 1916

Father's full name Glenn L Allen

Father's place of birth Missouri

Mother's full name Emma Blanchard Allen

Mother's place of birth Missouri

Where did you grow up? San Jose

Education San Jose ~~State~~ 3 yrs

UC-Berkeley AB pol. Science 1937

" LLB 1940

Early employment law practice

Positions held in state government Assembly 1953-62

West Valley College board 1964-6 Supervising Com. Traffic 1963 Express

Employment after leaving state government law practice

I A NOTE ABOUT EARLY YEARS

[Date of Interview: 20 February 1980]##

Sharp: Whenever I start an interview, I like to ask some additional biographical questions, so that when people read this manuscript, they know a little bit more about you other than just the fact that you were a judge and an assemblyman.

Do you have other brothers or sisters besides yourself in your family?

Allen: Four boys, one girl alltogether. I was in the middle.

Sharp: What are their names?

Allen: Margaret. She got married and had one child. Glenn Allen, Jr., older brother who graduated from Cal [Berkeley] and went into chemistry--Dow Chemical, Pittsburgh; got married, had two children. And a brother, Kenneth, who went to Cal Berkeley, and Stanford; became a doctor; practices medicine; married and had three children. Youngest brother, Tom, went to Cal--doctor's degree at Berkeley--and teaches chemistry at UC Davis. He got married and had four children.

Sharp: Everybody seems really well educated.

I wanted to ask if you had religious influences as a child, when you were growing up.

Allen: Went to Sunday school, church, right. Fairly regularly.

Sharp: What church was it?

##This symbol indicates that a tape or a segment of a tape has begun or ended. For a guide to the tapes see page 38.

Allen: Methodist church in Santa Clara.

I lived on a farm, so we had to drive a ways to get into church, but we did that quite regularly.

Sharp: Now I'd like to ask you to tell me a little bit more about your early career history before you went into the assembly.

Allen: I graduated from law school, got a job with a San Francisco firm, in a small office--Rogers and Clark. After a few months I was drafted; spent five years in the army. I went back after the war [World War II] into the same firm in San Francisco for about three years. Then I left and went into law practice on my own in San Jose, which had been my home town.

About three years later, there was an opening in the legislature. The gentleman that had the office was running for something else, so I decided to run for his position and won.

Sharp: Who was that?

Allen: Charles [S.] Gubser was the assemblyman who represented the then 29th Assembly District. He ran for Congress and got elected. I ran for his seat and got elected.

Sharp: Who encouraged you to run for the assembly?

Allen: [chuckles] My wife. Friends.

Sharp: It just seemed the right thing to do at the time, or--?

Allen: It was a matter of opportunity. In the first place, I would not have run against the incumbent, who was a friend of mine. Just happened that I was then in a space in my life where I could do it without upsetting my family, and I had always wanted to be in the legislature. I wanted to be in Congress. You know, when you are young, you want to do everything.

Sharp: I know! [chuckles]

So you are encouraging your son to do it?

Allen: He wants to do it, and sure, I encourage him. If that's what he wants to do.

I encourage a lot of people to run for things. It's hard to get people to run. Sure, I talk to a lot of people about running for public office. It doesn't matter what party they are in.

Sharp: It worked well for you to do it, and so, you have a successful experience to remember and think about, too, hoping that other people have the same kind of experience.

When you came in to be a state assemblyman in January of 1953, if you can think back, tell me what you thought then were the major concerns of the state legislature.

Allen: Highways was the big problem. That is before we had any freeways in California, and the traffic movement was slow. It would take me four hours to go to Sacramento.

Sharp: From San Jose?

Allen: By automobile. Take well over an hour to go to San Francisco. Highways were all undivided, no freeways, traffic congestion, and inadequate highways. They were a problem. We had a very rapidly increasing population. We had a thousand people a day coming into California, so our school districts had severe financial problems coping with the increase in school population. Construction--they needed construction money. Those are a couple of the problems.

In Santa Clara County, water--the need for an additional water supply was a big topic. The people here had numerous water meetings. I had been in the Junior Chamber [of Commerce] and active in that. Through the Junior Chamber, before I got in the legislature, I conducted many meetings, studies, had speakers on water. We were short of water, needed outside water, and we were aware already of the Feather River Project proposal by the state water engineer--this is before there was a water department--and proposals to bring water in in connection with the Feather River Project.

Sharp: Had people from around San Jose talked to you before you decided to run, and then while you were running for the assembly, about what they thought about it, and what you should do about it?

Allen: Well, since I was in the Junior Chamber and got involved with Junior Chamber projects, we decided to set up a committee to look into water. We had committee meetings. We sent out for copies of these reports and had a lot of discussions on our own. There was a local water district here; it had its own policies, and we were not paralleling them at all. The Santa Clara farm bureau was interested and the public newspapers. They were all interested. It was simply a big topic! Common discussion on it everywhere.

Sharp: Was there concern about how the state was going to pay for the Feather River Project?

Allen: Big concern over how to pay for everything, including that. Yes, definitely.

Sharp: And the highways?

Allen: Oh, yes.

II YEARS IN THE ASSEMBLY, 1953-1960

The Tidelands Oil Issue: Controversy and Compromise

Sharp: Once you got, then, to the assembly, the committees that you were put on--Ways and Means, as well as Conservation, Planning, and Public Works--were both committees that had quite a bit to do with the budget and budgetary concerns. Was there automatically a sense that the money would come from somewhere to do all of these things?

Allen: No, no, no. That's tough, figuring out where the money comes from. No, you can't levy taxes on people, or charge them bills, without a pretty good reason. And they have to want you to do that.

Sharp: When you got to the assembly and people were beginning to talk about the Feather River Project and highways development, where did they think money was going to come from?

Allen: With highway development--it was very clear that it was going to come from gas taxes, paid by automobile and truck users. There was some talk--I think sparked by some of the oil company lobbyists who were against gas taxes--to have toll roads. So we had a lot of discussion about toll roads versus highway user taxes.

Governor [Earl] Warren was pushing for an increase in the gas tax, and we had a major battle throughout the 1953 session on the gas tax legislation. There were bills introduced in both houses by rival authors, lots of committee hearings. I was in the middle of all that.

[In response to the editor's request for Judge Allen to elaborate on this controversy over the gas tax, he supplied the following remarks upon his review of the transcript.]

Early on I met Senator [George J.] Hatfield, a great power in the senate. He had chaired a senate committee. I got acquainted with their research man, an able U.C. prof from Berkeley (Richard Zittle).

Allen: A lot of us asked for a gas tax increase, raising the California gas tax 1 1/2¢ a gallon to a total state tax of 4 1/2¢. We barely won, which started the whole freeway program in California and meant no toll roads in this state. Later, we went after the federal government to start subsidizing a federal interstate freeway system.

[transcript resumes]

Sharp: The year you came in, 1953, was exactly the same year as the congressional Submerged Lands Act was passed. Now this act was a giant quitclaim bill in which the Congress relinquished actual control of the tidelands along California so that the revenues were then freed to come back to California. This meant at the very least--it was like $65 million--came back into the California state coffers.

Allen: Yes, that was the impounded revenue from oil leases on submerged lands, the title to which had been in litigation between the United States and the state of California. During the litigation, the revenue from those leases was impounded and had accumulated, I recall, around $65 million.

Shortly after I became an assemblyman and took office, this matter was settled and the money was released to the state of California. The federal Congress helped us by clearing it up and clearing up California's title. This involved primarily where the boundary was between the federal and state submerged lands. There is still a boundary. The federal government didn't give up all of it out to sea, it just settled the boundary.

Now then the question arose what to do with the impounded money. All of a sudden the state had $65 million plus what we called the rainy day fund, which nobody at that time wanted to spend. It was about $75 million. So the speaker of the assembly [James W. Silliman] appointed a committee, an interim committee, to hold hearings after the start of the session ended, called the Select Committee on Impounded Funds from Tide and Submerged Lands. It was a fancy sounding title. I knew absolutely nothing about this. I began going to these committee hearings and listening to, mainly, on how to spend the money or not to spend it. Assemblyman Stan [Stanley T.] Tomlinson from Santa Barbara was chairman.

Sharp: Was this part of the assembly Ways and Means Committee?

Allen: No, it was a special committee. I can't exactly quote anybody--but I think a number of the legislators did not want the state to spend this money on something that would involve a continuing expense, such as a whole lot of new beaches and parks.

Now we had not had new beaches and parks. Even though the state population was expanding, we had not had any for a long time because this money had all been tied up. And, beaches and parks, under existing

Allen: state law at that time, were entitled to a share of revenues from oil leases. Now, if this was turned loose on a lot of new beaches and parks, it would involve continuing operational expense. Some of the legislators thought we should develop some theme to not spend this money.

Well, I represented a lot of people who lived in houses on small lots and they wanted a place to go on the weekends, and public beaches and parks were the place to go. You want to stay out of trouble, and you like going to the ocean or to the mountains. So I wanted more beaches and parks. Even though this, not spending the money on new parks, might have been the objective of some of the people on the committee, it wasn't mine.

The committee actually ended up doing nothing. But some of us who had been involved and exposed to this started our own program to spend all of this money--the whole $65 million--on buying new land, either on the sea coast or in the mountains, for more state beaches and parks. This was not a program from the governor, it was a program coming from those of us in the legislature. We got a bill passed in the legislature finally in 1954. They spent the whole $65 million in one bill for whole list of beaches and parks up and down the state and the governor vetoed it. There was a big hue and cry, and I had some bitter things to say about the governor, which didn't make us friends at that time.

Sharp: This was Governor Goodwin Knight by this time.

Allen: Then Governor Knight. But the result was there was a big public demand for this, and the following year we got the legislation through, for the same things the bill was vetoed.

Sharp: I am not sure when discussion of your own tidelands bill began. I know that it was a compromise tidelands bill that was passed in 1956.

Allen: The tidelands bill I had of my own was the one dealing with Long Beach. I got into that in a very uninformed way. That time, the 1955 session, the constitution required that the legislature have one general session every two years--it lasted six months--that is January through June. All the bills for the whole session had to be introduced during the first two weeks. During that time, I think on the last day of the two weeks, a stranger (a San Francisco attorney) asked me to introduce this innocuous bill dealing with Long Beach.

I only had time to make a few telephone calls and to get us some very sketchy information, and on the basis of that, which was encouraging, I introduced the bill. Immediately I was the center of a huge controversy over the Long Beach oil money. Long Beach newspapers were very bitter and unkind to me in their comments on my bill,

Allen: because it involved the possibility of transferring to the state approximately $125 million in money from oil leases on the tidelands that the city of Long Beach held and operated. That [money] had been impounded simply because Long Beach couldn't spend it fast enough. Long Beach was not permitted to spend this money on general city purposes, like police or fire. There had been court decisions that limited their expenditures to harbors and navigation.* The city had developed a very fine harbor and simply, well, it ran out of places to build more wharves and warehouses; so the money accumulated.

As I got into it, I reached a rather firm conclusion that the beneficial ownership of the money was in the whole state. As I got into the matter further, and before the bill ever came up for its first hearing, the California Supreme Court ruled that the beneficial interest in all the money was in the state of California (Mallon v. Long Beach, 44 Cal. 2d. 199). The state of California was the real owner, the legislature was free to revoke the grant to Long Beach and reserved the right to revoke it.

This is the implication and there are some legal theories involved, and the [state] supreme court was very clear about this. The supreme court said furthermore, that the legislature had revoked this already as to one-half, and that half of this accumulated money belonged to the state under a bill that had passed, sponsored by Long Beach, a few years earlier (Stats 1951 p. 2444).

[Upon his review of the transcript, Judge Allen added the following remark.]

I am sure that Long Beach thought in sponsoring that bill, that the one-half freed from the trust would be available for city general purposes. The supreme court held that would be a gift, illegal under the state constitution and, on revocation of the trust, the money reverted to the state. Without my bill and all the efforts of people who supported it, I assume Long Beach would have sponsored another bill to repeal the 1951 act and try some other theory to free all the money for general city purposes.

[transcript resumes]

Sharp: How, then, were the hearings held?

Allen: On the Long Beach bill?

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*Judge Allen later supplied the citations for these cases: Long Beach v. Morse, 31 Cal. 2d. 254; and, Trickey v. Long Beach, 101 Cal. App. 2d. 871.

Sharp: Yes.

Allen: A while. [laughs] The bill was referred to the Assembly Committee on Conservation, Planning, and Public Works, of which I was a member. The city of Long Beach hired a lobbyist, a local attorney in Sacramento. It may have been Philip Wilkins. They had other lobbyists in Los Angeles and Long Beach, but they hired a special lobbyist there, a very nice gentleman.

The chairman of the committee, Francis Lindsay, was helping me; he was my seat mate and very much in favor of my bill. The committee rapidly became sharply divided. Some of the members obviously supporting Long Beach; some of them supporting me; some of them in the middle. I had this new [California] supreme court decision, which was on my side. We had committee hearings at which the city of Long Beach had arrived with a whole plane, two planes, full of people--city officials and citizens--to show up to fight my bill. They filled the biggest committee room we had twice.

Sharp: And they would actually testify to the committee?

Allen: Oh yes, they talked. My testimony didn't take long, but I got the bill approved in the first committee. I was sent to the Ways and Means Committee; I got it approved there; took it up to the floor, and it was defeated. It was all involved in a lot of legislative infighting, and it takes place in any controversial bill.

But the result was the bill was not dead, it was referred to what they call interim study. We had a select committee apointed to conduct hearings on the subject, and there were many legislative hearings on the subject of the Long Beach tidelands and whether the legislature should pass my bill, during the course of which I got a tremendous amont of new information.

As the hearings developed and got hotter, more of what went on in the Long Beach administration of the tidelands was exposed. Suddenly I was approached by the publisher of the Long Beach Press Telegram (Herman Ridder), who suggested we compromise and settle the whole thing. Following that, we began having discussions and private meetings in Sacramento between representatives from the city of Long Beach, the attorney general's office and myself, during which we worked out a compromise both as to the amount of money the state would get, the subjects the city would be free to build to spend money on. They had a sinking problem, for example.

Sharp: Was that subsidence?

Allen: They had to build new bridges. Subsidence.

Allen: We cleared all those things up, put them all in one bill in the 1956 year. We had a special session, we had to go to the governor and ask him to please add this subject on the call for the special session. Governor Knight agreed to that if we reached an agreement.

The Long Beach City Council and Chamber of Commerce had been violently opposed to my bill, but when the compromise was reached, they did an about-face and supported the bill--the compromise. The state got $120 million outright. Our biggest problem with the compromise was getting the senate to stay in session one day longer so that they could pass the bill. I had to prevail upon the President pro tem of the senate, Hugh M. Burns, who wanted to go home--he didn't want to stay there--to stay one day longer, so we could go through the mechanics of getting the bill passed.

Sharp: What was the California Tidelands Protective Association? Was that the lobbyist group?

Allen: It sounds like a group that was supporting my bill.

Sharp: I just ran across that name and I wasn't sure which side of the fence they were on.

Allen: Well, during the activity on this bill, the city of Long Beach, as I mentioned, hired a lobbyist--they had several lobbyists--and I used everybody I could to support my bill. There were some lawyers in Los Angeles that were helping me, and that protective association sounds like a name they used on some of the leaflets they printed, to get help for me. I think anybody who supported the bill became part of the association, something like that.

Sharp: Now Long Beach spent quite a bit of money in trying to protect the exisiting situation.

Allen: By standards of lobbyist activities in those days, they did, yes.

Sharp: I have a figure about $200,000 that fit Long Beach--

Allen: I wasn't aware they had spent that much.

Sharp: That is what I had run across, I believe it was in Lou Cannon's Ronnie and Jesse.*

Allen: That would not have been in money flowing around Sacramento.

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*See Ronnie and Jesse, A Political Odyssey, pp. 94-95. Garden City: Doubleday and Company, Inc., 1969.

Sharp: Would it have been lawyers' fees or what?

Allen: In terms of what I saw, the fight might now cost the city that much if you add up the cost of the time of all city personnel, attorneys, outside attorneys, etc. Nothing like that was spent in Sacramento. I remember a figure of $6,000 spent on entertainment, dinners, etc., which in those days was quite a bit. I do not have a breakdown or even accurate figures. I do know that Long Beach, the Ridder newspapers, and the League of California Cities pulled all the stops and used every avenue possible to defeat my bill.

What they really wanted but never got off the ground was to have the legislature pass a bill in their favor to undo the Whallon decision, restore the half of the oil money taken away under that decision and open the funds up for use for city purposes. I assume that all of the money spent by the city against my bill came out of the oil money so they would be expected to charge everything they could to the oil amounts. That would explain your figures.

Sharp: What was Pat [Edmund G., Sr.,] Brown's role as attorney general through this period? You had mentioned that some people came from the attorney general's office to help you.

Allen: To the extent I could figure out his position, he was doing whatever Long Beach wanted him to do. Actually, Pat Brown I don't think made any public pronouncements. From what I could tell he was doing, he was pretty much siding with Long Beach.

Sharp: Why?

Allen: I don't know why. He did not appear on any of the committee hearings. He had a deputy, Leonard Friedman, who later became a judge, who was a very able lawyer, who participated in the settlement, and helped write the legislation.

Sharp: I wonder why he would have been helping Long Beach? As a state official, you would have thought that he would have been helping you.

Allen: He definitely was not helping me.

Sharp: What was Governor Knight's--

Allen: In fact, he [Brown] was opposed to me.

Sharp: Was it a partisan--?

Allen: All I could do is speculate that maybe it had something to do with the statewide chain of newspapers of which Long Beach Press Telegram is a part, that was very violently opposed to my legislation. It owned large, prominent papers circulating in San Jose, in Pasadena, and in Long Beach.

Allen: Brown made a report to the legislature, and filed it with a senate committee. It disclosed something I was unaware of before, that the California gas company, the southern California gas company--I forget the name--was contributing money through the lawyers in Los Angeles to help my campaign for this Long Beach bill. Brown made some very caustic comments about me in connection with this disclosure.

Now I never got any money from the southern California gas company. I had actually no money at all to spend in terms of lobbying and entertaining anybody. Nobody was helping me do that. The gas company hired a publicity man in southern California who helped preach support for my bill. But the only reason I could see for what Brown was doing was that this was getting him friendship from these big newspapers.

Certainly oil companies were not involved. They had no interest that I could ascertain on one side or the other. There were some Long Beach people though that got a fat personal profit out of the oil leases with no investment whatever. When I started digging into that the whole fight collapsed.

Sharp: What was Governor Knight's role in this period when the bill was being heard?

Allen: The Long Beach oil money?

Sharp: Yes.

Allen: Zero. Nothing.

Sharp: Was this stance of his--

Allen: He took no part whatever. He signed the bill, the compromise bill that passed.

Sharp: But it wasn't a matter of perhaps going to see him and asking him to talk to certain people?

Allen: I went to see him to ask him to add this [bill] to the agenda for the special session, and he said, "Fine."

Sharp: Was that pretty much the extent of the conversation?

Allen: Right.

Sharp: Quick!

Allen: Took about thirty seconds. [laughter]

Sharp: Was this part of your period when you were not getting along too well with him, or was this long after that?

Allen: Well, let's see. [musingly] That was in '56, in the spring in the special session when I got the compromise bill passed, earlier--around two years before that, I had had a big fight with him over his veto of the park appropriation.

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Allen: I had also had a big fight with Governor Knight around 1954, over an enrollment ceiling on San Jose State College, which is in my district. He, or his administration, had decided that no more than five thousand students would be permitted to enroll in San Jose State College. As a mushrooming populated area, that was grossly unrealistic. I represented this area and also had attended San Jose State, and there was no legislation that set the five thousand as a ceiling. He just said, "Budget this for five thousand so no more can sign up."

I had a lot to say about this. I forget everything I did, but I got opinions from the attorney general and the legislative counsel, and said it was contrary to state law to set a ceiling. I think I went before the State Board of Education on the same subject. At any rate, the ceiling evaporated. He forgot about it.

During that time, I was not getting along well with Governor Knight. By the time the Long Beach compromise bill passed, though, I was working better with him, and our relationship continued to improve after that.

California Oil Companies and the State Legislature: General Comments

Sharp: I want to abstract from this particular oil situation for just a minute and ask you if you could sense in this early period what the main goals were of the oil companies in California. You said they were not involved in the tidelands oil bill?

Allen: Not in Long Beach. In Long Beach we were not dealing with oil companies, we were dealing with what would happen to the money. The oil industry is very complex. Big oil companies all have their own lobbyists, their own programs; they do not all agree.

Sharp: Did the oil companies become more visible to you as a result of the tidelands oil bill, then?

Allen: They were visible before I ever got sworn in as an assemblyman.

Sharp: In what respect?

Allen: Well, there was one lobbyist named [Harold] Morton who was supporting the opposition [to Silliman]. He was on the other side from me. The selection of the speaker of the assembly, that's one of the first votes I made first day in office as an assemblyman. This election was extremely controversial. My side won.

Sharp: That was Jim [James W.] Silliman?

Allen: Jim Silliman became speaker. I didn't see any evidence of activity by other oil companies on that speakership fight, but Morton was involved, at least from what I heard, on the opposition.

The oil companies generally were fighting the gas tax highway bill of 1953, and we got it through anyway. Now, later on as we got involved in leasing practices and bidding practices on state tidelands, we did get into a lot of controversy with oil companies and between oil companies.

Sharp: The fifties in California were a period of great expansion for the oil companies.

Allen: Tremendous expansion for everybody. Except farmers.

Sharp: Yes. It sort of went the other way. But the oil companies loomed the largest as a growing concern. I wondered how this growth was reflected in legislative participation. Maybe that comes just in later when we talk about the leasing and the competitive bidding through some of the bills. Does it come up in any other way?

Allen: Well, not that I remember to tell you anything about. Lobbyists for any interest are always around Sacramento, and they may not say anything, they just keep track of legislation to see that they block anything that hurts them. They may never say anything to most of the members of the legislature.

To try to get a bill passed, on the other hand, they can become very active, at least if the controversy develops. Now while the group I was working with was pushing this Long Beach legislation to transfer the Long Beach accumulated revenues to the state, a bill passed supported by the major oil companies that dealt with leasing practices on state tidelands. I was too busy to pay much attention to that bill and so were my friends who were helping me.

But as we got involved in the Long Beach tidelands, we learned a lot about the oil business that we didn't know. I don't come from an oil producing area, so I didn't know much about oil. But we had these numerous hearings, numerous documents, reports, from a lot of experts, and we went to see a lot of this in Long Beach. Long Beach, for example, up to that time, had drilled eleven hundred oil wells in the tidelands. It is a very small area, the tidelands, that they

Allen: had under a state grant. Never one dry hole--every single well produced oil, a very high quality. The specific gravity range is gasoline. You could almost put it in your car when it came out of the well. Very shallow wells.

We thought that if there was such a highly profitable oil pool in this one area of the state, maybe it was there in other areas that the state had not yet leased. We wanted to know what was the state doing with other areas. Were we going to get some money out of it for the state, or were we going to give it away? Was it going to go to the higher bidder, or what? So, we began asking a lot of questions about this, and we had the same people at our hearings from the State Lands Commission to advise us that were involved in the state leases.

As a result of that, a group of us concluded the state tideland oil lease bidding procedure should be changed to give the state a bigger return, to acquire a higher minimum royalty. The legislation had passed without us being really aware of it. [The royalty] was 12.5 percent. We raised that to 16 2/3 percent, I think, and provided for a sliding scale of higher royalties than that in the event a very rich find was developed.* Now that involved an entirely separate controversy that we got through around 1957. [It was] a running battle that lasted through the whole session with a lot better feelings between legislators. We had at least one oil company helping us--that was Richfield. We were fighting other companies that were against us, but we finally prevailed, got the bill passed, [and it] became law.

Sharp: I will ask you additional questions about that 1957 session a little bit later, but now I wanted to ask you about Proposition 4 in 1956.**

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*Here Judge Allen refers to AB47, introduced by himself, Allen Miller, Jesse Unruh, and Francis Lindsay, in the 1957 session. See pp. 18 below.

**From the voters pamphlet for 1956, Proposition 4, "Prohibit[ed] waste, defined as production methods which reduce maximum economic quality of oil or gas ultimately recoverable by good engineering practices. Provide[d] for unit operation of pools to increase ultimate recovery on agreement of lessors and lessees of three-fourths of pool. Create[d] California Oil and Gas Conservation Commission to prevent waste by any necessary or proper orders, including orders limiting production but only to extent necessary to prevent waste. Provide[d] for well-spacing. Provide[d] for pooling of spacing units in new pools. Provide[d] Commission's orders shall protect correlative rights. Provide[d] for enforcement and administration."

Allen: Conservation project of Richfield--I think it was Richfield.

Sharp: Richfield and some of the other major oil companies did sponsor it.

Allen: We never really could understand it. We had hearings on it, talked to a lot of oil people about it.

Sharp: Was it really conservationist?

Allen: I don't know. Some of the assemblymen who were involved in these hearings took public positions against Proposition 4. As I recall, I did not take a position either way. I never felt that I really understood it. Richfield was pushing it. A lot of the oil producers were bitterly opposed to it. Does that answer your question?

Sharp: Well, I am not sure I really understood it, either. I understand that Proposition 4 involved use of what was called the unitization process.

Allen: It [unitization] would allow controlling and limiting production on a unit basis for an oil field. You think of a bowl that's full of oil under the ground and anybody who puts a well down takes oil out of the same bowl, and affects the entire oil content of the bowl. If you consider an oil field in that light and you want to limit production, then you should limit everybody. But why should you limit production, and is it really one bowl or fourteen bowls? A lot of that I never had the answers to.

Sharp: But Richfield and the oil companies that were sponsoring Proposition 4 wanted everybody to believe that it was a conservation act.

Allen: That is what they said.

Sharp: Was there mostly confusion in the assembly over what Proposition 4 really meant?

Allen: No, it was on the ballot as an initiative. It was not a legislative measure at all.

Sharp: I just wondered if there was any feeling.

Allen: I would say most of the assemblymen ignored it. We were only interested in it because we had been holding hearings on other oil matters at the same time and here, all of a sudden, was this great big issue, and we were talking to the same oil people and they were trying to get our committee to support it, but we never did as a committee. This was a subcommittee of Conservation, Planning, and Public Works under the chairmanship of assemblyman Allen Miller of Los Angeles. Many of us were also on the Committee on Manufacturing, Oil, and Mining.

Sharp: There were two controversies that were raised in late 1956 after Proposition 4 had lost, that I saw in the Sacramento News for December 14, 1956. One of these was what was the counties of oil origin controversy which was raised by Glenn Coolidge and some of the other assemblymen.

Allen: That was just a gimmick for counties, local government along the coast, to get money from the state treasury. The state owned these tidelands out to the three-mile limit--it was state property. Under state law, bills we got through, the state could lease this to oil companies to produce oil and then they would pay money to the state, either cash bonuses and royalties, or a combination. Some of the legislators and their constituents said, "Well, we ought to get part of this, so we are going to tell everybody we are the county where the oil is. They should give us some of the money."

It did not belong to them any more than it belonged to the people in Fresno or San Francisco. So we were able to defeat them through argument on the floor. It came up for a vote and it was close, but we had the votes to kill the proposal.

Sharp: Was that a pretty strong cry?

Allen: Oh, yes, very strong. If we had not opposed it very vocally at the time these bills came up, they would have passed, because if you have a strong push for legislation and no opposition, it is apt to pass no matter how good or bad it is.

But when we pointed our that all we would be doing is taking a wad of money out of the state treasury and handing it to someone that has no more right to it than the city of San Jose or the city of Eureka, why give it to them?

Sharp: The other controversy was that Proposition 4, because it lost on the ballot, would be re-fought again in the legislature.

Allen: I don't think that ever was.

Important Oil Bills, 1957 Legislative Session: AB166, AB47, AB80, and AB930

Sharp: I wanted to ask you as sort of the rest of our time, about the 1957 regular legislative session, and one of the bills that was passed was AB166 which was [Francis] Lindsay's oil and gas conservation law. From reading it it looks like the plans for unitization were really laid out in this bill.

AMENDED IN ASSEMBLY APRIL 22, 1957

AMENDED IN ASSEMBLY MARCH 21, 1957

CALIFORNIA LEGISLATURE—1957 REGULAR SESSION

ASSEMBLY BILL No. 47

Introduced by Messrs. Miller, Bruce F. Allen, Unruh, and Lindsay

January 8, 1957

REFERRED TO COMMITTEE ON MANUFACTURING, OIL, AND MINING INDUSTRY

An act to amend Sections 6827, 6829.1, 6830, 6834, 6871.4, and 6873.2 of the Public Resources Code, relating to oil ~~and gas~~ GAS AND MINERAL leases of state lands.

The people of the State of California do enact as follows:

SECTION 1. Section 6827 of the Public Resources Code is amended to read:

6827. Leases for the extraction and removal of oil and gas deposits may be made by the commission to the highest qualified bidder, or joint bidders, as provided in this chapter. Such a lease shall include all oil and gas deposits in the leased land and be for a term of 20 years and for so long thereafter as gas or oil is produced in paying quantities from the leased land, or lessee shall be diligently conducting producing, drilling, deepening, repairing, redrilling or other necessary lease or well maintenance operations on the leased land. Any lease heretofore issued under this chapter for a term of 20 years, or any renewal or extension thereof, may at any time or times prior to its expiration be extended upon such terms and conditions and for such period of time as the commission deems for the best interests of the State or as the Legislature may provide; provided further, that upon the lessee's timely application therefor the commission may issue a new lease in exchange for any lease issued for a term of 20 years, or any renewal or extension thereof; such new lease shall be issued at the same royalty and upon the same terms and conditions as the lease for which it is exchanged, unless the commission and the lessee

shall otherwise agree, except that the term of such exchange lease shall be for a term of five years and for so long thereafter as oil or gas is produced in paying quantities, or lessee shall be conducting producing, drilling, deepening, repairing, redrilling or other necessary lease or well maintenance operations on the leased land.

When state lands, including tide and submerged lands, are ~~offered for lease by the commission a sliding scale royalty on oil commencing at not less than 12½ percent up to a maxi-~~ *offered for lease by the commission, the commission shall specify a sliding scale royalty on oil commencing at not less than 16⅔ percent up to a maxi-*mum percentage specified in the invitation to bid to be paid on the average production of oil per well per day under such lease, and a royalty of ~~12½~~ *not less than 16⅔* percent as specified in the invitation to bid on dry gas, natural gasoline, and other products extracted and saved from the gas produced under such lease, except gas used for lease use or reinjection into the leased lands. Such royalties shall be paid in kind or as a percentage of the current market price at the well of, and of any premium or bonus paid on, the production removed or sold from the leased land, subject to an allowance for oil treatment and dehydration of not to exceed five cents ($0.05) per barrel for royalty oil, and an annual rental payable in advance of not ~~to exceed~~ *less than* one dollar ($1) for each acre of the land subject to the lease at the rental date. Unless the commission decides to reject all bids pursuant to Section 6836, the lease of the parcel or tract which is the subject of the bid shall be awarded to the qualified bidder who undertakes to pay the highest cash bonus in addition to satisfying ~~the royalty and rental requirements and~~ *all other provisions of the lease, or, in the alternative, when specified in the invitation to bid, undertakes to pay the highest rate of royalty in addition to satisfying* all other provisions of the lease.

If, at any time or from time to time, before or after the expiration of the primary term of such lease, the leased lands cease to produce oil or gas, the lease shall, nevertheless, continue in full force and effect if within six months after the cessation of production, or such longer period of time as the commission may authorize, lessee shall commence and thereafter prosecute with reasonable diligence drilling, deepening, repairing, redrilling or other operations which shall result in the restoration of production of oil or gas from the leased lands.

SEC. 2. Section 6829.1 of said code is amended to read:

6829.1. Every oil and gas lease, including leases of tide and submerged lands, executed under this chapter, shall specify a period of not to exceed three (3) years, as specified by the commission in the invitation for bids, subject to extension by the commission as provided in this chapter, as the drilling term of the lease within which the lessee may commence operations for the drilling of a well for oil or gas, and, providing

that, if lessee fails to commence such operations and to thereafter diligently prosecute them, the lease shall terminate.

SEC. 3. Section 6830 of said code is amended to read:

6830. All oil and gas leases issued by the commission for lands under its jurisdiction as set forth in Chapters 3 and 4 of Part 1 and in Chapter 3 of Part 2 of Division 6 of ~~this code, and all oil and gas leases issued for granted lands as approved by the State Lands Commission pursuant to Chapter 29 of the Statutes of 1956, First Extraordinary Session,~~ *this code* shall contain a reservation to the commission of the right to determine the spacing of wells and the rate of drilling and rate of production of such wells so as to prevent the waste of oil and gas and promote the maximum economic recovery of oil and gas from, and the conservation of reservoir energy in, each zone or separate underground source of supply of oil or gas covered in whole or in part by leases issued under this chapter.

SEC. 4. Section 6834 of said code is amended to read:

6834. Whenever the commission determines that lands shall be leased for oil and gas as provided in this chapter and when the form of lease therefor has been prepared by the commission, the commission shall give notice of intention to lease such lands. The notice shall be published in a newspaper of general circulation in the county in which the lands or the greater portion thereof are situated and shall state the time (which shall not be less than 14 days after the last date of publication of the notice) and place for receiving and opening bids, a description of the lands, either as a tract or by parcels, and that the form of lease for the purpose of bidding may be procured at the designated office of the commission.

If the notice is published in a weekly newspaper, it must appear therein on at least two different days of publication and if in a newspaper published oftener, there must be at least five days from the first to the last day of publication, both days included.

SEC. 5. Section 6871.4 of said code is amended to read:

6871.4. The commission may divide the lands within the area proposed to be leased into parcels of convenient size and shape and shall prepare a form of lease or leases therefor embracing not to exceed 5,760 acres in any one lease.

SEC. 6. Section 6873.2 of said code is amended to read:

6873.2. Before offering any tide or submerged land area for an oil and gas lease, the commission shall publish notice thereof, and any affected city or county may, within thirty (30) days after the publication of such notice, request in writing to the commission that a hearing be held with respect thereto. Upon receipt of such request, the commission shall hold such a hearing and give not less than ten (10) days written notice thereof to the city or county, or both such city and county, making such request, and to the Department of Natural Resources, and shall publish such notice. The commission in its discretion and irrespective of any such requests may

hold such hearings as it shall determine. Published notices shall be given in the manner prescribed in Section 6834 of this chapter.

In not less than thirty (30) days after such hearing the commission shall determine whether or not to offer the land for lease, as provided under Sections 6871.3, 6872 and 6872.1. In such determination the commission shall consider whether the issuance of a lease as to all or a part of such land would result in an impairment or interference with the developed shore line recreational or residential areas adjacent to the proposed leased acreage, or whether to offer such land for lease as to all or a part thereof and include in the offer for lease such reasonable rules and regulations which, in the opinion of the commission, are necessary for the exploration, development, and operation of said lease in a manner which will not impair or interfere with said developed shore line recreational or residential areas; provided, however, that no tide or submerged lands shall be offered for lease under any conditions, rules, or regulations which will result in a discrimination between bidders as prohibited by Section 6874.

The commission in determining whether the issuance of such lease or leases would result in such impairment or interference with the developed shore line, recreational or residential areas adjacent to the proposed leased acreage or in determining such rules and regulations as shall be necessary in connection therewith shall at said hearing receive evidence upon and consider whether such proposed lease or leases would

(a) Be detrimental to the health, safety, comfort, convenience, or welfare of persons residing in, owning real property, or working in the neighborhood of such areas;

(b) Interfere with the developed shore line, residential or recreational areas to an extent that would render such areas unfit for recreational or residential uses or unfit for park purposes;

(c) Destroy, impair, or interfere with the esthetic and scenic value of such recreational, residential or park areas;

(d) Create any fire hazard or hazards, or smoke, smog or dust nuisance, or pollution of waters surrounding or adjoining said areas.

Authority to hold the hearings provided in this section may be delegated by the commission to its officers or employees.

Allen: I don't remember. [pause] You say this bill passed?

Sharp: Yes.

Allen: I don't know anything about it.

Sharp: This bill created a new bureaucracy and it laid out the state oil and gas conservation department. But the Chapter 5 part of the bill is the plans for unitization, at least as I understand it, and it looked to me like it was pretty much what Proposition 4 had said.

Allen: I don't think it would have passed if it did everything Proposition 4 provided. I don't think there was any controversy over this bill or I would remember it. I do not recall this at all.

Proposition 4 was bitterly fought, and most of the oil companies were against it. I don't think this Lindsay bill would have passed if it had been the same thing.

Sharp: I would like to ask you about some of the other bills, then, that went through the Committee on Manufacturing, Oil, and Mining Industry. The first one is AB46, which as you were talking about before, raised the percentage of royalties that would be given. They were raised from 12.5 percent to 16 2/3 percent.

Allen: That was very controversial.

Sharp: What was the controversy all about within the committee?

Allen: Oil companies who produce oil have typically paid the landholder 12.5 percent royalties. Across the country you go out to some farmer and say, "We want an oil lease on your property." They write it up for 12.5 percent royalty. As to tidelands, that was a state law, that the state got 12.5 percent royalty.

But as we got involved in our investigation into Long Beach and saw the huge profitable oil operation there, we concluded that 12.5 percent was not realistic. We wanted a system of competitive bidding, and most of the major oil companies wanted competitive bidding limited to how much of a cash bonus they would pay. You don't have competitive bidding if you have more than one biddable factor--this is the key in competitive bidding--that all of the bids are one biddable factor so you can line them up. The best bid, worst bid, the ones in between, and nobody can argue with you. It is arithmetical.

So we finally concluded we would raise the minimum royalty and also provide for sliding scale royalties that were standard, where the state share went up if there was better oil production, and then have the one biddable factor that remained to be the cash bonus. A lot of oil lobbyists said, "It won't work, you won't get any bids, we don't want anything to do with it."

Allen: I don't know that it was universal among oil companies, but there were enough of them to give us a lot of trouble in getting these bills passed. We had Richfield on our side helping us. After the bill became law, that raised the royalty, provided the sliding scale royalties. The State Lands Commission offered a lot more tidelands for bid and got excellent bids--very good bids.

Sharp: I wanted to ask you about two things about the State Lands Commission and about Richfield. First of all, why was Richfield on your side?

Allen: I don't know. [chuckles] Not anything we did for them.

Sharp: I mean if you were raising the royalties, what would they gain by helping you get this, or supporting this bill?

Allen: Richfield, now Atlantic Richfield--it merged with Atlantic. At that time, it was just Richfield. They had, like all the big business organizations, their own policies which they analyzed and determined on their own, completely for reasons unknown to me, they decided that they wanted this. We had a lot of discussions with them, as well as other people. Why they were on our side and other companies against us, I don't know--it was just the position they took.

Sharp: Now that State Lands Commission was the leasing agency for the state--

Allen: Yes, on all state tidelands.

Sharp: Did AB47 that was talking about the royalty percentages and setting up this bureaucracy for the bidding of leases and so on, were you then changing the powers of the State Lands Commission?

Allen: No. No. Specifying the bidding practices under which they could grant leases and take bids.

Sharp: What was the feeling of the State Lands Commission about this bill?

Allen: The lands commission was ex officio state officers--controller, I think the lieutenant governor; I forget who else--the three of them*--they had no position. They felt it was a legislative battle and they would let us fight it out.

Sharp: And they would just go by the rules that you--

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*The three members were T.H. Mugford, the director of Finance, Harold J. Powers, the lieutenant governor, and Robert C. Kirkwood, the state controller. F.J. Hortig was the executive officer of the commission, and the petroleum engineer Judge Allen refers to above.

Allen: The executive officer of the State Lands Commission was a petroleum engineer, a geologist who--very able man who met with us frequently. We frequently sought his advice. I don't think he was speaking for or against these bills, but he was giving us a lot of good advice on various things. The lands commission did not take a position on those bills.

Sharp: The second bill that I wanted to ask you about is AB80, which had to do with surveys and permittee's rights with surveys.* I am not sure that I totally understood the bill.

Allen: Well, it was a new development in oil leases under which exploration for oil was undertaken. Prior to this period we are talking about, '56, '57, a lot of oil exploration had been pure wildcat. Somebody would drill a well and if he struck oil, great! If he didn't find oil, he said, "Well, there's no oil there." By 1957, there had been tremendous development in how to explore for oil, and to find out where to drill where you will probably find oil. Oil companies would do this by taking samples, drilling core holes. They would take a ship out in the tidelands, anchor it, send down some pipe and drill a hole. Se what was down there. That's core-hole drilling. They are not supposed to drill far enough to strike oil, because then it would all leak out and you'd have a lot of ecological damage, which nobody wanted.

But core-hole drilling under special permits, this is the type of thing AB80 provided for. Without giving them a lease you gave them a special permit, say, in such and such an area. They could take samples, and we wanted to know what the samples were.

Oil companies would also do seismic explorations, set off dynamite charges and listen to the echoes. They had a lot of knowledge that they had developed on how to find out the kind of geologic structure there is under the ocean floor--they do this on dry land, too--and find out what areas are promising. Because of what they would find out when you offered land for lease, if they had made these studies and you allowed them to do the core drilling, the seismic exploration, then you offered the land for lease after they had all done that. You got wild bidding. They bid millions and millions, hundreds of millions of dollars! Cash bonuses.

[This process] involved huge expenditures of money by the oil companies. We wanted to allow them to do this under restriction. So the policies set forth in AB80 were those recommended to us by the executive officer of the State Lands Commission.

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*See page 25.

ASSEMBLY BILL No. 80

An act to amend Section 6826 of the Public Resources Code, relating to the State Lands Commission, declaring the urgency thereof, to take effect immediately.

The people of the State of California do enact as follows:

SECTION 1. Section 6826 of the Public Resources Code is amended to read:

6826. The commission, however, may permit geological or geophysical surveys on state lands and may grant permits therefor upon such terms and conditions as the commission shall specify by regulation, but any such permit shall not give the permittee any preferential right to an oil and gas lease. The taking of cores and other samples may be conducted on and under tide and submerged lands of the State; provided, that the commission shall require that a permit first be obtained covering such types of drilling operations for the purpose of obtaining geological samples as the commission may determine by regulation, such permit to be issued upon such terms and conditions as the commission may specify by regulation, but any such permit shall not give the permittee any preferential right to an oil and gas lease.

The commission shall require, as a condition to the issuance of any permit under this section, that the permittee make available to the commission, upon request, all factual and physical exploration results, logs, and records resulting from the operations under the permit. Any such factual or physical exploration results, logs, or records which the permittee is required to ~~furnish~~ *make available* to the commission shall be for the confidential use of the commission and shall not be open to inspection by any other person or agency without the written consent of the permittee.

It is a misdemeanor for any member of the commission, any officer or employee of the commission, or any person performing any function or work assigned to him by the commission, to disclose to any person who is not a member, officer, employee of the commission or to any person who is not performing any function or work assigned to him by the commission, any information obtained from the inspection of such factual or physical exploration results, logs, or records, or to use such information for purposes other than the administration of the functions, responsibilities, and duties vested in the commission by law, except upon the written consent of the permittee making available such information to the commission.

SEC. 2. This act is an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

It is imperative that the State receive as soon as possible all possible information with respect to its lands so as to enable the administering agency to perform properly its functions with respect to the granting of oil and gas leases of state lands and to protect the State's interests. This act is necessary for that purpose.

Allen: The [Department of] Fish and Game people were involved. You know, when you set off dynamite in the ocean, you kill fish. You were setting up a system where this could be regulated and yet permitted.

Sharp: It is interesting that there is a passage added regarding State Lands Commission members giving information about the surveys to non-State Lands Commission members. It said that it was a misdemeanor for a State Lands Commission member to do this. I wondered if the addition of this passage had been caused by some irregularity that you had noticed.

Allen: No. No. There was no irregularity.

Sharp: Why was it added?

Allen: We were trying to set up a system under which oil companies could conduct this exploration in areas the state might possibly decide to offer for lease. We wanted the lands commission to get the information, so if the oil companies knew, well, it looked like a big oil find down there, the land commission would know it too. We didn't want the lands commission going into it blind.

"Well," they (oil companies) said, "if we spend $25 million for this ship out there for a year, we don't want you publishing this, telling our competitors." So it was agreed that this was confidential and could not be disclosed to competitors. We had not any hint of anything irregular for that.

Sharp: Another bill I found that passed I didn't understand very well, AB930.* I just wondered if you could clear up what it meant, if it was part of this bureaucracy for oil well drilling.

Allen: AB930. That was when I was pushing my first Long Beach bill which did not pass. This [AB930] is the Long Beach bill. The lead author is Assemblyman [William S.] Grant who was from the city of Long Beach; Assemblyman [Herbert R.] Klocksiem who was from the city of Long Beach; Assemblyman [Thomas M.] Erwin who was from Los Angeles--I don't know how he happened to get in there--and Lindsay, who was my seatmate and chairman of the Committee on Conservation, Planning, and Public Works. It was obviously a Long Beach bill sponsored by the city of Long Beach.

Sharp: What did it say?

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*See pp. 27-28.

AMENDED IN ASSEMBLY MAY 21, 1957
AMENDED IN ASSEMBLY MAY 2, 1957
AMENDED IN ASSEMBLY APRIL 22, 1957

CALIFORNIA LEGISLATURE—1957 REGULAR SESSION

ASSEMBLY BILL No. 930

Introduced by Messrs. Grant, Klocksiem, Erwin, and Lindsay

January 16, 1957

REFERRED TO COMMITTEE ON MANUFACTURING, OIL, AND MINING INDUSTRY

An act to add Section 6879 to the Public Resources Code, relating to the inclusion of tide and submerged lands in agreements for cooperative or unit development of oil and gas.

The people of the State of California do enact as follows:

SECTION 1. Section 6879 is added to the Public Resources Code, to read:

6879. Whenever tide and submerged lands of the State have been granted to a city, county or city and county by a grant which does not reserve to the State the right to produce oil and gas therefrom, and such grantee shall determine that it is in the interest of increasing the ultimate recovery of oil or gas from such lands, or of the protection of oil or gas in said lands from unreasonable waste, or that the subsidence or sinking of such lands and abutting lands may possibly be arrested or ameliorated thereby, such grantee may enter into agreements for the purpose of bringing about the cooperative development and operation of all or a part or parts of the oil and gas field in which such lands are located, or for the purpose of bringing about the development or operation of all or a part or parts of such field as a unit, or for the purpose of fixing the time, location, and manner of drilling and operating of wells for the production of oil or gas, or providing for the return or injection of gas, water or other substances into the subsurface of the earth for the purpose of storage or the repressuring of such oil or gas field.

Each such agreement shall provide that any impairment of the public trust for commerce, navigation or fisheries to which said granted lands are subject is prohibited, and shall be sub-

mitted to the State Lands Commission for approval. If the State Lands Commission shall find that said agreement so provides and that the entering into and the performance of such agreement is in the public interest, then the State Lands Commission may approve such agreement on behalf of the State.

The Legislature hereby finds and declares that the entering into and the performance of any such agreement which has been approved by the State Lands Commission will not impair the public trust for commerce, navigation and fisheries to which said granted lands are subject, and that any acts or things done pursuant to the terms thereof or resulting therefrom are consistent with and not in violation of the terms or conditions of any such grant or of any trust, restrictions and conditions appertaining thereto. No such agreement so approved by the State Lands Commission shall effect or result in, or be so construed as to effect or result in a revocation of or change in any trust pertaining to said lands, or in any grant, conveyance alienation or transfer of said lands, or any part thereof, to any other individual, firm, or corporation, even though such agreement provides for the pooling of oil, gas or other hydrocarbon substances produced from said land with oil, gas or other hydrocarbon substances produced from other lands, or results in the migration of any oil, gas or other hydrocarbon substances between said lands and other lands. Any trusts, restrictions or conditions pertaining to any production from said granted lands included in any such agreement, or to any proceeds from such production, shall apply only to that part of the production or that part of the proceeds therefrom which is allocated to such city, county or city and county on account of said lands under any such agreement, and shall not apply to any other production or the proceeds therefrom, whether or not the same may have been produced from said lands or other lands.

If approved by the State Lands Commission, any such agreement shall bind the State, and shall bind any of the following who execute the same:

(a) Such city, county or city and county; and

(b) Any operator of such tide and submerged lands under contract with such city, county or city and county, and such operators' successors and assigns; and

(c) Any other party, and the successors and assigns of such other party.

Any such agreement shall be enforceable in an action for specific performance against the parties bound thereby.

No agreement executed pursuant to this section shall affect or determine the boundaries of the tide and submerged lands granted, in trust, to the City of Long Beach by Chapter 676, Statutes of 1911, Chapter 102, Statutes of 1925, Chapter 158, Statutes of 1955, as modified by Chapter 915, Statutes of 1951 and Chapter 29, Statutes of 1956, First Extraordinary Session.

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Allen: It said you can have unit operation of the production of oil involving tide and submerged lands with adjoining lands. It was in Long Beach where they had one lease--the Long Beach Oil Development Company for drilling for production of oil on the tidelands. There might have been a few adjoining wells on the shore on private property, tapping the same reservoir. They could not only set the unit operation for production, but they could provide unit operation for repressurization, which Long Beach later developed to

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a high degree of technology of injection of water into the area under the Long Beach tidelands. They stopped the sinking by injecting water under a very high pressure, and it produced more oil as a result of injecting the water. This allowed unitizing between the tidelands and private property without infringement of the trusts under which the city held the tidelands. They were very worried about being in possible violation of that trust that might result in cancellation of the grant.

Sharp: Was this bill an important one for Long Beach to have passed, then, or not really?

Allen: I don't know how important it was.

Sharp: I just wondered if it was part of the controversy. It didn't seem to me that it was, but since it was a Long Beach bill, I thought I would ask you about it.

Allen: This passed after the settlement of the Long Beach tidelands. The settlement was in '56; in the '57 session, this passed. Because it refers to this settlement, Chapter 29, 1956.*

Sharp: I just wondered if it was important.

Allen: It was very important to them to stop the subsidence. That was a big issue in Long Beach and they had a very serious problem. They had been sinking down below sea level, and this caused them all kinds of problems.

They did do repressuring. We agreed that they could use the oil money to repressure. (The agreement was expressed in Chapter 29, in later committee hearings and bills, and in State Lands Commission approval.) This allowed joining their repressuring system with any onshore privately-owned wells that were involved in the same oil pool. I don't think there were very many of those, if any. There

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*See line 51 of AB930 (p. 28 of this manuscript).

Allen: must have been some because the city would not want to spend, and we would not want the city to spend, say $10 million on high pressure water injection where that drives oil to some fellow up on the shore that gets the oil, and paid nothing. He ought to pay his share.

Sharp: Was the repressurization essentially injecting water into the space where the oil was?

Allen: I think mostly they used existing oil wells, they simply started pumping water in some of them. They might have drilled some new ones, but I think they used old wells for that purpose. But they used water. There was originally talk about injecting natural gas but that costs money. Gas is more expensive than water, and they have plenty of water.

Sharp: And the water then--

Allen: Sea water.

Sharp: The use of the sea water then helped to get more oil out of--

Allen: Sure.

Sharp: I wasn't sure why they did it.

Allen: The reason they did it wasn't to get more oil, it was to stop the sinking, and they did stop it.

Sharp: One other bill that was sponsored by Thomas Rees, which was AB2812, you tagged on an amendment to prohibit oil companies from making any campaign contributions. I don't know if you remember that.

Allen: Sure do.

Sharp: Why did you do that?

Allen: Well, oil companies had been involved in a lot of lobbying. Most of it has been on positions opposite the ones I had, so I wasn't too friendly with them. But this proposal was one proposed by the assembly Republican caucus, and I happened to be the one that went out of the caucus room after they opposed it and got the amendment adopted to the bill.

They offered the bill to the senator who had the bill and he dropped the bill, and this was amended into it. I concluded later after I had some time to think it over, I was wrong. Because I had been involved in all this legislation and fighting with oil companies, I felt that particular ruckus was over. It would be wrong that anybody is not entitled to go the legislature and state his position.

Allen: To do it effectively involves hiring a lobbyist to represent you. Lobbyists are needed, so is regulation of lobbyists, but the regulation should be fair. You either prohibit all of them or you let them all contribute to campaigns.

You can't pick out one industry and say, "No, you don't do it." I probably had in my political experience more oil money spent against me than for me, by far. [phone interruption]

Sharp: I wanted to ask you if you know what the relationship was between the California oil companies and the federal government in California during this period, if the oil companies attempted to get the federal government involved somehow in their own aims, their own goals, within the state.

Allen: I do not know of any such relationship. Nothing.

Sharp: Looking through the Sacramento News, the newspapers, and other articles, I get one reality, but since I wasn't there, it is hard for me to get the entire picture.

Allen: Well, your questions are about oil so far. I found that as I got involved in these controversies, the solution of one would disclose new ones. When we, for example, got through with the Long Beach controversy, we settled it. Long Beach had continuing problems but they were minor, and there was no controversy over them. They might [not be] in terms of the time a legislator spends on them. But we found new controversies in Los Angeles over oil leases on submerged lands held under grant from the state there--Hermosa Beach, Redondo Beach, Orange County.

Some of these were very bitter controversies involved in numerous legislative hearings. As I recall, in Orange County, a result of the hearings we held was that the promoter who either had or was trying to get a lease from Orange County, simply gave up and went home, to some other state where he came from. The result of the hearings we had on these other cities including Los Angeles was that I introduced legislation that passed, with no controversy at all, to require every city to have public competitive bidding on oil leases. It was not a requirement before then. We felt that insiders were getting special deals and the Committee on Manufacturing, Oil, and Mining Industry said so publicly.

We learned a lot about the oil business through this we didn't know--we were talking to all these people. I wouldn't say we became experts but if you did not get involved in this, there could be a lot going on you did not know anything about.

Sharp: So when we were talking before, I sort of summarized that what you were doing with the Long Beach tidelands oil controversy and then the hearings and bills that came after that, was part of a reform of the practices--

Allen: It was a movement within the legislature to reform oil leasing practices on public property in California, very definitely. A result of these controversies was that there was a group in the legislature pushing for these reforms, and we knew who our friends were and who we could talk to about it. This group was a bipartisan one in the assembly who voted and worked as an informal bloc. If I had wanted support for something, I knew who I could go to and get quick answers from, and support.

We knew who our opponents were. We knew where we could find support within the oil industry, what lobbyists and companies might help us on some proposals, who we could go to for information, particularly when we wanted technical information. We found out where to get it, and to get it quickly and to get reliable information.

We found out how to spark plug a statewide campaign for support for these things. We found that, as we did this, newly-elected assemblymen who would come in the following year, would volunteer to help us, and knew generally what we were doing; they liked it; they offered to join in.

The Issue of a State Water Plan: Another Political Controversy

Sharp: That pretty much ends the questions that I have about oil, but I wanted to ask you in the last fifteen minutes or so, about the other big controversy in the state during the period you were in the assembly, and that is water.

Now, it seemed that the main project was the Feather River Project, as far as water is concerned during those years. One bill that was mentioned in the Sacramento News was AB100, which was a [Francis] Lindsay bill. I think it is the same Mr. Lindsay.

Allen: Francis Lindsay.

Sharp: I don't know if you remember this bill, but in the Sacramento Newsletter, there was a sparse comment about bitter debate that occurred over changes that were made in the Lindsay bill.

Allen: We had a bitter debate over many water bills in that period. It was a big topic; took a lot of time of almost everybody in the senate and the assembly and the governor. Ran during the period of five or six years. Fact is, it ran during my whole service in the assembly. That is ten years.

Sharp: What was the general problem involved in all of the controversies?

Allen: A water shortage, statewide water shortage. We had inadequate delivered water to supply the demands of people, residential use, of industry for industrial use, and agriculture.

Sharp: I wanted to ask you, then, about this special session of 1956 that seemed important for oil concerns and also for water concerns. It is out of this 1956 special session that the single water agency is established.

Allen: When the Feather River Project was first proposed--this goes back to around '52--we had a state engineer. State engineer [A.D.] Edmonston and his staff wrote a bulletin proposing the Feather River Project. It was later learned many of the proposals and recommendations were rather sketchy and they were modified as further work was done. For example, the original Feather River dam proposal was concrete. As actually built, it was earth fill. Canal routes and delivery points were changed, refined, modified.

But for a huge project to involve a very major dam on the Feather River of Oroville, the delivery of water into Santa Clara County, southern California as far down as San Diego, it seemed obvious that the state agency involved should be a new department with department status. It involved a much bigger operating budget. So there were a lot of proposals made by various authors to create the state water department.

There were very bitter fights. A lot of it was simply personality over "My bill's better than yours. Why pass yours? I want my name on it." A lot of if was over the language. I remember that Francis Lindsay was involved in this, and so was I. Some things in his proposals I liked and some I disagreed with.

Sharp: When you were on the Conservation, Planning, and Public Works Committee, it was a water committee in the sense that most of--

Allen: That was the water committee where all the water bills went.

Sharp: So you were in a position, then, to see this controversy going back and forth about where the project should begin and end, and what the appropriations should be for it?

Allen: They had a lot of controversies within controversies. We had Democrats and Republicans. We had the north and the south. Los Angeles County had a different position than San Diego, Riverside, and San Bernardino Counties, and Orange County was in between.

We had areas in the north that wanted water--Santa Clara County for example, just as much as Los Angeles did. The San Joaquin Valley areas did not want interference with their Bureau of Reclamation project, but they still wanted the water in the San Joaquin Valley from the state project, and they wanted cheap water. We had so-called counties of origin, the Sierra foothill counties, that wanted preferential rights to water. It mainly amounted to them getting cheap water without paying for it. Sparsely settled areas, they didn't want much water and they didn't want to spend a lot of money to get it.

We had the Metropolitan Water District in the middle of all this--the major water agency covering most of southern California but controlled largely by directors from Los Angeles County. So the policies of the Metropolitan Water District were related by its representatives to the legislature and frequently were disputed by members of the Metropolitan Water District from other areas. Those of us who did not agree with the Metropolitan Water District's position would exploit this division. We would sometimes get a big battle on the floor of the assembly over the budget.

Those of us who wanted to go ahead immediately and spend some money, for example, on buying the site for the Feather River dam, we would get a lot of votes from southern California. Perhaps they were not enough because Los Angeles County had such a huge population that we could not pass an appropriation bill without their votes and they could not pass one without our votes. So sometimes there were long running battles over the budget and bills.

Sharp: Within all of these confrontations among various groups, northern and southern, and Democratic and Republican, where was Governor Knight's leadership for the Feather River Project?

Allen: Governor Knight was consistently in favor of the Feather River Project, in favor of moving things along. He wanted a new state water department. He would not push any particular bill or design. He wanted to go ahead with the Feather River Project. He was willing to go ahead with building it now, but he wasn't particularly pushing for appropriations now. That was sparked by some of us within the legislature.

Sharp: He did not see it as his role to push for real appropriations, as far as that was concerned?

Allen: I don't recall that Governor Knight was very aggressive on the subject. He was consistently in favor of the state water system, and doing what he could to move it along. He knew there were these factions within

Allen: the legislature and also outside the legislature and that he did not have the political clout to hit everybody over the head and say, "You have to do it"; he could not have accomplished anything that way. So he simply encouraged it and that's about as far as he could have gone.

Sharp: Since you were in a position to observe all of the controversy on the Feather River Project and the other water bills that were going through the legislature, did it seem that he had appraised the situation correctly, that the forces were simply too much for one governor to push one way or the other?

Allen: Oh, it was impossible to bring everybody together any quicker than the way it happened.

Sharp: Why did it happen when it happened with Governor [Edmund G., Sr.] Brown, then?

Allen: Governor [Pat] Brown, really, I don't think had any more clout to do it than Knight did, but he had a legislature that was newly Democrat, very strong. [There was a] Democratic majority, and I think the position some of the legislators had been taking was very partisan. I think [Pat] Brown helped to encourage this opposition to the water program before he became governor--as attorney general. He was consistently against almost everything.

Before [Pat] Brown became governor, anytime there was a water bill or a vote coming up in the floor of the assembly, there was a southern California caucus composed of all southern California legislators. They had a caucus chairman, and he would announce, "We're going to have a caucus on this, " and they would all walk off the floor, and everything would stop till they got back. They were pretty consistently against any immediate appropriations for water development.

But after [Pat] Brown became governor, and still had all the same forces for water development, Brown ultimately proposed a bond issue that finally passed--very controversial bond issue. But all the time that was developing with Brown as governor, there was never a meeting of the southern California caucus on water; not one meeting.

Sharp: So the partisan support had swung--

Allen: It was obviously very partisan. Some of the Democrats in the assembly, most of whom were for water development, felt obligated though to maintain the position of the Metropolitan Water District. But after Brown became governor, they no longer followed the position of the Metropolitan Water District. They voted against the Metropolitan Water District to go ahead now. They did this without any southern California caucus.

Sharp: That pretty much finishes the questions that I have about the oil and water controversies for the 1953 through 1958 period, but I wondered if you had other comments that you wanted to make about the resource controversies, now that you look back twenty years later on the whole situation.

Allen: Well, the whole thing was involved in a burgeoning state population that was growing very rapidly and went right along with the demand for new school sites, new school buildings, more highways, freeways--we had controversies over a freeway system at the same time. Where are the freeway routes? And you talk with the same people on one issue as you are on the next one, and the need for water obviously is a statewide problem. The water was inadequate.

Sharp: I was really interested to hear you tell me that the Santa Clara Valley was part of a geographical area that would really benefit from a water project. For one thing, as I said, I have been more focusing on southern California as the real recipient of the water, but from where you were sitting in San Jose, you saw the burgeoning population and you saw the water demand as well.

Allen: San Jose, Santa Clara County, had inadequate water supplies, based primarily on local rainfall. With our rapidly expanding population and industry, it was grossly inadequate. The Feather River Project offered a very practical, economical way to get the water, and we succeeded in getting it built.

The Santa Clara County Board of Supervisors had been very strong in support of this project. It was unanimous on the board. We had a local fight here with the local water district, water conservation district. It had its own board and wanted the Bureau of Reclamation and "cheap" public power, and did everything it could to keep us from getting the South Bay aqueduct build, but we prevailed. So all the legislators and the board of supervisors were for it, and we went right along with it. Southern California got their contract; we got ours shortly after that.

[The editor asked Judge Allen to give additional details of this controversy. Upon review of the manuscript, he supplied the following remarks.]

For example, the separate water conservation district's engineer appeared before a state senate committee and told them Santa Clara County did not want Feather River water. After the state bond issue was passed, the same district's attorney appeared before the state Water Rights Board and opposed allocation of water rights for the Santa Clara County share. I was present both times and was able effectively to oppose those arguments. Senator Jack [John F.] Thompson and I retaliated by proposing legislation to abolish the district. We had the Board of Supervisors to back us up. Without the Feather River water, Santa Clara County simply would not exist as the metropolis that is here today (1980).

[transcript resumes]

Allen: I mentioned some of the controversy that I was involved in with the governors, both [Goodwin] Knight and [Pat] Brown. But nevertheless I had a working relationship with both of them. When [Pat] Brown was governor, one of the first bills he sponsored, which I carried, was to appropriate or earmark all of this accumulated Long Beach oil money for the Feather River dam. The oil money became water money.

Sharp: The last question then, I think, gets back to the tidelands oil revenues. Once these began to come regularly into the state, was there more a sense of security then that you would have some constant money that would begin to pay for a larger Calfornia water project, or was that connection made?

Allen: There was a proposal that Francis Lindsay and I made to use all the oil money for water development--to have a pay-as-you-go water plan where we continuously had a construction program for water development, but we lost on that and what passed was a bond issue for one project. Unfortunately, the state has not continued after the one project to continue to develop water resources. We have the resources here in the state and our populated areas are going to be short of water even we moved today, before the additional supplies are delivered to the populated areas.

The state needs a continuing program developing our water supplies, because our population is continuing to increase. The presently built California water plan, combined with all the federal and local projects, is simply not adequate.

Sharp: When the tidelands oil money started coming in then, was it not really that much that you could count on?

Allen: There wasn't enough of itself to build a water system, no.

Sharp: I think that is all the questions that I have.

Transcriber: Marie Herold
Final Typist: Matthew Schneider

TAPE GUIDE -- Bruce F. Allen

[Date of Interview: 20 February 1980]

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Hugh M. Burns

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LEGISLATIVE AND POLITICAL CONCERNS OF THE SENATE PRO TEM, 1957-1970

With an Introduction by
Richard E. Combs

An Interview Conducted by
Amelia R. Fry, Gabrielle Morris
and James H. Rowland
in 1977, 1978

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INTRODUCTION

Senator Hugh Burns and I became acquainted soon after he went to Sacramento as an Assemblyman. That was during the early regime of Governor Culbert Olson in 1939. Unemployment and welfare relief were critical problems during those depression years, and as the welfare bureaucracy burgeoned, there was evidence that it was being seriously infiltrated by radical and subversive elements. This was disturbing to the legislators in general, and especially to Burns, who came from a rich agricultural area.

When the legislature convened in February 1940, the radical infiltration of relief agencies had become so apparent that when Assemblyman Sam Yorty introduced a resolution to investigate relief, it won speedy approval. This committee submitted reports in February and May, 1940. In 1941 the first in a long series of fact-finding committees on un-American activities was established by joint resolution. Burns was a member of that committee and, after becoming a Senator, served as chairman of these committees from 1949 until 1970.

As counsel for the committees, I became closely associated with Senator Burns, and our friendship has continued for more than forty years. He was an excellent chairman: moderate, fair, and courageous. He provided a firm and steady hand on the rudder. It was essential that we maintain contact with other official agencies engaged in similar work. This liaison prevented us from inadvertently interfering with their activities, and our rapport with them would have been impossible without their confidence in the integrity and discretion of Senator Burns. The

committees operated in a highly emotional and controversial atmosphere, and the chairman was impervious to attacks from the radical left when we investigated communist activities, and from the radical right when the attention was turned to such groups as Mankind United, the Ku Klux Klan and the German-American Bund.

During his long tenure as chairman, Senator Burns' fairness may be exemplified by his opening statement at a special hearing held in July, 1954. Its purpose was to afford a medium for the protection of those unjustly accused of subversive affiliation or activity. He said:

> "Already the committee has been accused of white-washing by holding this hearing. It is very clear that no matter what the committee does, it will continue to receive criticism from those few who believe that if a person was unfortunate enough to be drawn into a front at any time, he should be forever damned * * * The committee intends to be as fair, as objective, and effective as possible. The obligation to investigate and expose subversive activities and persons carries with it an obligation to protect the innocent. The committee intends to do both to the best of its ability."

My own responsibility was to provide legal counsel, direct the investigations, conduct hearings, and prepare reports. These matters were invariably done with the knowledge and approval of the chairman.

In a foreward to the committee's final report in 1970, Senator Burns wrote, in part:

> "Your committee has kept the spotlight of publicity firmly on subversion by the communist world conspiracy and from other sources as no other governmental

agency has been able to do.

Only by continuing to recognize and publicize can such activities, in the long-run, be countered.

It has been a privilege and an honor to participate in this American activity."

For more than forty years the legislature, and especially the Senate, demonstrated its confidence in Senator Burns' ability and leadership by regularly voting to continue the committee, and by re-electing him its President Pro-tem and chairman of its powerful Rules Committee.

Senator Burns' warm, convivial personality endeared him to his friends and colleagues. It has been a privilege to have known and worked with him.

Richard E. Combs
United States Magistrate
Three Rivers, California
11 April 1979

INTERVIEW HISTORY

Hugh M. Burns was interviewed by the Regional Oral History Office for the Goodwin J. Knight-Edmund G. Brown, Sr. era segment of its Governmental History Documentation Project. As Senate pro Tempore and key participant in the California Water Plan legislation, the Senate Un-American Activities Committee, the reapportionment battle of 1966, and numerous other significant issues during his legislative career, Senator Burns was an important narrator in documentation of legislation during the 1953-1966 period.

Born in Arizona and raised in Fresno, California, Burns finished his schooling in San Francisco and returned to Fresno in 1929 to become a partner in the mortuary business. His focus on politics developed during the Depression. In the mid-1930s he founded the Fresno chapter of the Young Democrats, and in 1936 he garnered business and labor endorsements to win the assembly seat representing the 36th district.

Once in office, Burns became an active and ambitious legislator with a transition marked career. At first a supporter of liberal Democratic Governor Culbert Olson in the late 1930s, Burns grew suspicious of communist infiltration into state agencies by way of Olson patronage. His increasing suspicion of communists in state government moved him to join the newly formed Joint Legislative Committee on Un-American Activities in 1941. A vacancy for the 30th senate district found Burns waging a successful campaign for the upper house where he continued his legislative tenure until 1970. Popular with Democrats and Republicans, Burns won the top post of Senate President pro Tempore in 1956 when Senators Randolph Collier and Louis Sutton bolted parties and provided the margin of victory for Democrat Burns. The victory marked the first Democratic pro tem since 1889. A man of conservative philosophy, but open to workable ideas of change, his name and title carried considerable clout in the Knight-Brown era. For instance, the Burns-Porter Act, otherwise known as the California Water Plan, was passed by both houses partly due to Burns' co-authorship and position in the legislature. His conservatism was illustrated by his chairmanship of the Senate Un-American Activities Committee from 1949 to 1970, and his defense of the committee reports from press and public criticism in the 1960s.

The Hugh M. Burns manuscript represents five interviews with three members of the Governmental History Documentation Project. The senator's interview with Gabrielle Morris, held on April 3, 1978, is the first in order of appearance. In his spacious ranch-style home in south Sacramento, the senator and Ms. Morris settled in a cozy study lined with trophies, plaques, and awards and discussed his personal history, early legislative career, reflections of the Democratic party, campaigning for state-wide officers, and his own election as senate pro tem in 1956.

The second interview in the manuscript was recorded by Amelia Fry on April 5, 1977. Also held at the senator's home, it was conducted in the large, multi-hued living room amid random interruptions from neighborhood barking dogs and low-flying aircraft. That session covered the senator's reminiscences of senate reapportionment, twists and turns within the Democratic party, fair housing legislation, the California Water Plan, the Chessman death penalty case, legislative operations, and the senator's chairmanship of the Senate Un-American Activities Committee.

The last three interviews to appear in the manuscript were conducted by the editor. While a graduate student researching the Burns Committee on Un-American Activities, I had interviewed the senator twice in Sacramento, on August 16, 1977 and September 26, 1977. The first interview, held at the senator's home, focused on the Senate Un-American Activities Committee from 1949 to 1970. The senator remarked on the committee's investigations and staffing, and defended the controversial 1965 report on the University of California. The second interview was held at the state capitol building in the sixth floor cafeteria. After finding an isolated and relatively quiet corner, I continued my probing of the un-American activities committee with Senator Burns. The final minutes of that interview covered the senator's recollections of legislative maneuverings on a variety of bills, including fair political practices legislation and the Collier-Burns Highway Act. Toward the interview's conclusion, cafeteria noise level increased, whereupon we continued the interview in transit to the senator's car. The final interview was recorded on June 20, 1978, via telephone hookup. It surveyed his early years in Fresno and campaign endorsements for his initial assembly race.

After rough editing, the interview transcript was forwarded to Senator Burns for final review. Health problems complicated with failing eyesight made the senator's complete review difficult. Because of this circumstance and our impending deadline, we acquired his approval to use our office insurance copy of his transcript and, in consultation with him, prepared it for final typing. The following manuscript was typed from the insurance copy with few annotations added by the editor.

To complement the Hugh M. Burns manuscript, Richard E. Combs, the senator's thirty year colleague as counsel to the Senate Un-American Activities Committee, supplied an introduction. Springing from the same soil in the Fresno area, and from shared reactions in opposition to Governor Olson and the State Relief Administration, Mr. Combs and Senator Burns built a strong friendship. The introduction presents an admirable portrait of Hugh M. Burns as a crusader for anti-communism.

Although at times the senator had difficulty remembering precise names and episodes, the overall quality of the interviews comprises a portrait of the Hugh Burns style of leadership. His ingratiating and affable manner

balanced with a steady and resolute hand at the senate helm for thirteen years won him friends in both houses and in both parties. It is hoped that this manuscript will be a tribute to one of the last bipartisan legislative leaders whose advice to freshman senators has always been: serve your district first, then the state, and your party third.

James H. Rowland
Interviewer/Editor

25 April 1980
Regional Oral History Office
486 The Bancroft Library
University of California at Berkeley

I PERSONAL BACKGROUND AND EARLY POLITICAL INVOLVEMENT

[Interview 1: April 3, 1978]##

Thoughts on Earl Warren

Burns: You tell me you want to talk about Goody Knight and Pat Brown today.

Morris: Yes. We began our research with interviews on his administration.

Burns: I was disappointed with Warren when he was on the supreme court. What he did to California shouldn't happen to a dog, but it's one of those things.

Morris: Which decision is that?

Burns: Reapportioning the legislatures.

Morris: The one man-one vote [decision]?

Burns: Yes.

Morris: Well, you'd had those battles yourself in the legislature, hadn't you?

Burns: Yes. He made both houses of the legislature based on population.

Morris: Yes.

Burns: And that gave the cities the control of the California legislature, but that's a passing thought. I admired him when he was governor. He did a fine job as governor.

##This symbol indicates that a tape or a segment of a tape has begun or ended. For a guide to the tapes see page 92.

Morris: Yes. Did you work as closely with Goodwin Knight too when he became governor?

Burns: Oh, yes. Yes. Although being a Democrat and one of the leaders in the senate, and Warren being a Republican, the last time Warren ran for governor against Jimmy Roosevelt, I was one of Warren's supporters.

Morris: Were you?

Burns: Yes.

Morris: I see. Was there something about Mr. Roosevelt that bothered you?

Burns: No, there was nothing about him that I found any particular fault with, but I was very strong for Warren. He had all the attributes of a good governor, although he liked appointments, like commissions and boards and all that. He showed a special enthusiasm for those kind of things, which was all right; we could afford them.

Morris: You've got all those commission that have to have people on them.

Burns: Yes.

Settling in Fresno

Morris: Tell me about yourself. You were born in Fresno?

Burns: No. I hit Fresno twice in my life, once when I was seven years old. The family lived there until about 1911, until we moved to Merced. Then we went to Santa Rosa from there, then to San Francisco, and back to Fresno. [chuckles] My father was a traveling salesman; he moved quite often.

Morris: I see.

Burns: And when we were young, of course, we went along. I went back to Fresno in 1929 and went into business there.

Morris: Did you? For yourself?

Burns: Yes, a partnership in the mortuary business.

Launching a State Legislative Career

Morris: Had your father or your mother been interested in politics and civic [affairs]?

Burns: No, none of the family ever was. I became interested in politics during the Depression in 1930 and I was active in the Democratic party, formed the Fresno chapter of the Young Democrats, and in that way my interest was in the political field to an extent. It was sort of a side dish with me.

Morris: Yes. A recreation? A way to get to know people and--?

Burns: Yes, yes. To circulate around and get acquainted. I ran for the assembly in 1936 when a vacancy occurred. The incumbent retired or resigned. It was only a part-time job in those days, you know.

Morris: Yes.

Burns: We had a session that was practically limited to one hundred days. We were paid $1,200 a year, which was considered a part-time job. And I became interested in the political setup, of course, in that.

Morris: Why did you pick the Democratic party to join, rather than the Republican?

Burns: An opening occurred in 1943 in the senate. My senator [from Fresno] resigned, quit. That was during the war years and he was an officer in the National Guard. He eventually became Warren's appointee as adjutant general of California in the National Guard.

Morris: Oh, who was that?

Burns: Ray W. Hays was his name. And I was elected to the senate in '43.

Morris: Did you have Mr. Hays' blessing to go ahead and run for the office?

Burns: Oh, yes. I had the Democratic organization, such as it was in those days. I had made political connections during the six years that I was in the assembly, you see, and worked myself into this job. The competition in those days wasn't as keen as it is now, should we say, because as I said before the salary was only a--it had been raised to, let's see. [pauses to think] It had been raised to $1,500 a year from $1,200, and it was fast becoming a big thing.

Burns: And, oh, I got into other business interests in the meantime and finally abandoned the mortuary partnership and went into the insurance and savings and loan business. Of course, that changed somewhat my relationship as far as Fresno was concerned.

Morris: In what way?

Burns: Well, business connections were a little different in those days. I had a family down in Fresno. My daughter lived there. My sister lived there. And I became very much attached to the Fresno orientation, so to speak. And I just progressed up the ladder in the senate, more due to seniority than to anything else. [laughter]

Morris: You said something about the Democratic organization, such as it was. How much active help in politics was there from the Fresno area?

Burns: Not very much to begin with. They do better now, but in those days we had a Democratic county committee.

Democratic National Conventions, 1940 and 1944

Burns: And I was a delegate to the national convention the first time in--let's see. [pauses to think] I think it was '44.

Morris: What about 1940? We had a note in our records that you were a delegate to the 1940 convention.

Burns: Well, it began, some activity on the part of the Democratic--the Roosevelt regime sort of inspired them, you know, at that time.

Morris: Yes.

Burns: And they were a little more active than they'd been.

Morris: Somebody said that the ideas of Al Smith were still important then.

Burns: Well, Al Smith ran in the '28 election.

Morris: Right.

Burns: I lived in San Francisco.

Morris: At that time, yes.

Burns: Yes. That was the year before I moved to Fresno. And I took no part in that affair at all, although I voted for him as a Democrat. I wasn't too familiar with the activities then.

My interests really showed the time that Roosevelt ran for office the second time.

Morris: That would be '36.

Burns: Yes.

Morris: After he'd gotten some of the new legislation, the agricultural bills and things like that?

Burns: Yes. And '36 was my first time around for the assembly too. I was a delegate to the national convention in Chicago when Roosevelt ran for the third time.

Morris: Yes. What was that like?

Burns: Well, it was all new to me, of course.

Morris: Sure.

Burns: It was no contest for President. I think the only contest we had, and I don't know whether it was that year--in '40, I think it was. I can't remember exactly. We had a contest for vice-president. The man named Wallace--

Morris: Henry Wallace.

Burns: Yes. They refused to nominate him and nominated Truman.

Morris: Why do you suppose that was, because Wallace had been vice-president?

Burns: Well, there was a great deal of dissatisfaction with Wallace. What the reasons were, I don't remember at this particular time. But the powers that be, our national committeeman and all, were for Wallace. The delegation was split, however.

Morris: The California delegation?

Burns: Yes. Some of the delegates stayed by Wallace. I have in mind now Helen Gahagan Douglas, for one.

Morris: Was Culbert Olson active in those conventions?

Burns: Yes. He was the chairman of the delegation to the national convention.

Burns: He had just won his election.

Morris: '38 was when Olson was elected governor. So, at the 1940 convention he'd be the sitting governor. But I've heard from some other people that he was also at the 1944 convention and he felt kind of put out because he was no longer governor.

Burns: That's right. But it was the convention before that, I think.

Morris: Yes.

Burns: It would have been '44 when they changed their vice-president. Olson was the chairman of the delegation, even though he was no longer governor. And he stayed by Wallace. But Truman was nominated; he got the votes to do it.

Morris: Yes. Mrs. Douglas had her ups and downs as a congresswoman, didn't she?

Burns: Yes. I'm pretty sure she and Mrs. Yankwich, who was the wife of federal judge Leon Yankwich, were in the delegation, and they both were for Wallace, and Olson was for Wallace. That's the only three individual members that I can recall. It was the only contest at the convention.

Culbert Olson and Fresno Constituents

Morris: Yes. Had you worked for Mr. Olson when he ran for his second term?

Burns: No, no. Olson and I parted our ways during the legislative session. I wasn't against him or for his opposition. I was up for re-election too and I just took care of my own affairs.

Morris: I see. Did people in your Fresno area expect you to have a lot of influence with the governor as well as with the legislature?

Burns: Well, they used to make requests of me, but I never had much of an influence with Olson. He had named me as his floor leader once and I would try to compromise on certain issues that he was for, but he couldn't see it. He had a slight Democratic majority in the assembly, but we were outnumbered in the senate at that time.

When he ran again he made a trip down to Fresno and solicited my support, and I told him very frankly that I was up for election myself and I'd have to take care of Number One and I wasn't about to give him any help. Of course, I don't know how much help I would have been to him; I don't think much, to tell you the truth.

Burns: But he wasn't very popular statewide when compared to Warren, his opponent. Yes, the second time he ran, he and Warren tangled.

Morris: Yes, Warren beat him pretty handily. You could sense that people in Fresno were more inclined towards Earl Warren in '42?

Burns: I can't remember all of the things that came up at the time. I'm getting to be old and forgetful, I guess.

Morris: Well, I imagine one campaign runs into another pretty much when you've been in as many as you have.

Burns: Yes.

Morris: Who in general did you think of as your constituents in Fresno? Was it mostly the farmers around, or was it the businessmen?

Burns: Well, there was a farming interest in Fresno that was the mainstay in campaigning for office.

Morris: It was the farm interest?

Burns: Yes, the farmers. I won their support for the senate when I ran, the bulk of the farm area. Of course, California, especially at that time, was an agricultural state.

Morris: Yes, very much so.

Burns: Yes. My county was the largest producer of agricultural products, dollars and cents, of any county in the state; in fact, any county in the whole United States. For dollar value of agricultural production, we led the rest.

Morris: It's also been a pretty prosperous area too, hasn't it? The farm income was pretty high in the '40s and '50s?

Burns: Yes. The farming element was the mainstay of Fresno County. We had some labor union power in the city of Fresno, but most of it was in the rural area and it still is today, I think, for that matter.

Legislative Responsibilities and Partisanship

Burns: But another thing happens to you when you get into office. You get involved in so many things, so many legislative issues, that you get [chuckle], as far as yourself personally is concerned, to

Burns: think you're essential to the legislative activities of the state and they all fall on your shoulders. [chuckle] Of course, the more you get involved, the more you work, the more things you've got to do. And I was in that position.

Finally, in the '50s, I ran for the president of the senate, president pro tem, and I held the office thirteen years, which is longer than anybody else. And, of course, the work increased during that time, and you'd begun to assume so much responsibility that it's difficult to drop it. So, I finally did. It became so much work and strain and struggle that I wasn't going to run the following election.

Then the Republicans formed a coalition with a few Democrats and voted me out of office. And then I was sure I was going to go then, and I was in my seventies, and it was too much work. My health was in jeopardy too. I developed high blood pressure, blood sugar, the diabetes, you know.

Morris: Oh, dear!

Burns: And I knew it was time then just to quit and take it easy.

Morris: I should say so, yes. As president pro tem, did you do on the senate side do what I understand Jesse Unruh was doing as speaker of the assembly: really kind of supervise elections to try and increase the number of Democrats in office?

Burns: Well, I never had that in mind. I'd have one or two personal friends that I would support, but I never wanted to be what you might call a bagman. I refused to do that, except in one case, but that was after I was out.

Morris: In other words, this was Unruh's idea that he thought this was the way it ought to be; it wasn't customary for the speaker to--

Burns: No, because Unruh filled a vacancy where a vacuum existed. He assumed a leadership along certain lines. I have no fault to find with it, but I didn't want to assume that responsibility, so I would avoid it whenever possible, for the election of Democrats. I didn't care very much if they were Democrats or Republicans as long as they were good people.

Morris: I see. Is that an idea that has begun to disappear?

Burns: Yes, quite a bit. The legislature has become more partisan, day by day and week by week. For instance, as evidence shows, we had never had a party caucus in the senate. There were party caucuses in the assembly, and they made them official. Party leadership was

Burns: an office in the assembly, but we never did and I don't think they ever have created such an office in the senate. Although when I was there they had designated certain people, like the vice-chairman of the rules committee was named in the press and called the Republican leader.

See, before my time the setup in the senate was changed. All the prerogatives of office used to belong to the lieutenant governor. He appointed the committees, he assigned the bills to committees, and all that before I got [there]. The session before I went, the senate was changed, and the president pro tem of the senate was named chairman of the rules committee.

The only partisanship evidenced at that time was the rule, strictly a senate rule, that two members of the rules committee would be of the minority party, two members would be the majority party, and the chairman would be the president pro tem.

II THOUGHTS ON THE POLITICAL PROCESS: CAMPAIGNS, CONSTITUTIONAL OFFICERS, AND THE DEMOCRATIC PARTY

Election as Senate pro tem

Morris: Did it take a lot of maneuvering to get yourself elected pro tem?

Burns: No. In fact, I didn't do any maneuvering at all. I talked to the various members and did all my lobbying on the side. It was sort of a "must" deal because at that time [1957] the senate was equally divided, twenty and twenty, and in order to get elected I would have to get a couple of Republicans to go along with me, which I did and was successful in doing, not because the other nominee for the office [had] anything wrong with him, but I had a more popular following than he did.

Morris: Who was your competition? Who else was running for pro tem that year?

Burns: A senator from Santa Cruz, Grunsky, was my opposition.

Morris: Donald Grunsky hadn't been in the senate as long as you had either, had he?

Burns: Well, he hadn't been as long as I had, no. But he was somewhat of a fixture there and, incidentally, a very good man, a solid citizen. But there's where my work really entailed wooing a couple of Republican votes, which I was able to do. Randy Collier voted for me and so did a man from Colusa. What the heck was his name now? [pauses to think]

Morris: I can look that up in one of our directories.

Burns: All right. I may think of it before you leave.*

---

*Louis G. Sutton (R); 8th District; Colusa, Glenn and Tehama Counties, 1947-58.

Burns: I won the election by twenty-two votes. The Republicans forced us to a roll call on it and everybody went on record, which heretofore was not done; they were elected by resolution. In a private meeting all the members of the senate, before the session started, gathered together and picked their pro tem, and they picked their chaplain, their sergeant-at-arms, and their officers that way. And we had no battles on the floor on it.

But when I won in the meeting in the senate--it wasn't exactly a caucus--but when I got the twenty-two votes which made it very apparent I was elected, why, the Republicans wanted a record.

Morris: They wanted to know which Republicans had voted for a Democrat.

Burns: Yes. Of course, they knew, but they wanted it in the minutes of the meeting [laughter] that the two Republicans went haywire. I don't know why, but they insisted on it. So, we had to have the roll call, and they called the roll, and my Republican friends stayed with me. I voted for myself, incidentally. [chuckles]

Morris: I should hope so!

Burns: Yes! [laughter]

Morris: Is it the custom not to vote for yourself for that kind of--?

Burns: No, no. There was no question about it. [chuckles] But one of my times that I was up for re-election, I don't think I had any opposition, so I didn't vote; I abstained from voting.

Morris: When you were pretty sure of the outcome.

Burns: I couldn't lose. There was no use rubbing it in! [chuckles]

Democratic Governors: Olson and Brown

Morris: You said a minute ago that you felt that Jesse Unruh was filling a vacuum when he kind of took charge of--

Burns: Yes. The vacuum was simply this: it existed because no one took an interest in making the house Republican or making it Democrat, you see, and he filled that space, which was all right. I didn't--I suppose I should put it this way: I wasn't as party-conscious as he was. And we were getting more Democrats all the time.

Burns: As I say, when I first went in we were twenty-twenty, fifty-fifty. Gradually the Democrats gained power. Now I don't know what it is. It's very small percentagewise that they have.

Morris: You mean the Democrats have a smaller margin now than they did a few years ago?

Burns: Well, the Democrats have a pretty good edge.

Morris: But there are fewer Republicans than formerly?

Burns: Yes.

Morris: I thought that when you said a "vacuum," you might have been referring to Governor Pat Brown. There are some reports that there was some pulling and hauling between Pat Brown and Jesse Unruh.

Burns: No, I don't think there--towards the end of Pat's second term, he had big differences with Pat. I don't know. They've argued among themselves about certain things that I'm not familiar with because I didn't care whether I knew or not. I had no problem with Pat. Pat was the governor and he went along pretty well. He didn't go all the time. I didn't agree with it all the time, but I made nothing out of it. He and I got along fine.

Morris: You didn't feel like he was trying to tell the legislature what it ought to do?

Burns: Well, they all do that. [chuckles] But that seems to be the theme of the governors that are elected; what they can get passed in the legislature is their big deal. That was where Olson fell flat on his kisser. He was going to pass legislation that would do this and do that of a very liberal nature and he couldn't get it through. I didn't think Pat Brown went too far in that regard at all, because that was the nature of the office.

I didn't always agree with Pat. For instance, when he brought out his repeal of capital punishment and named a special session to do it, I was tempted very much then to take issue with it, which I did in a small way, but it didn't involve personalities.

Morris: Yes. Would you have gotten involved at all in 1958 when he was running for governor the first time?

Burns: Yes, when he ran for governor the first time, I was chairman of his campaign committee for Fresno County. And when he was first elected I went to San Francisco to see him and he said that he'd be glad to work for me, or with me, and I said, "Well, the feeling

Burns: is mutual. I'm perfectly in accord with your views. All I want [for] any favors out of the governor's office is for you to be a good governor," which he was.

I never wanted any governors' appointments or anything, not for myself because I never wanted to be in a position of depending for a living on politics. [tape off briefly during telephone interruption]

Morris: You said you didn't want to be dependent on politics for a living.

Burns: Yes. I wanted my own business, which I had. It was successful and I wanted to stay in business. I didn't want to devote all my time to a political office.

Morris: Yes. Did it get to be that way?

Burns: I softened up a little bit when I quit the senate. A few people asked me to run for secretary of state, which I did. I filed for the office, but I never campaigned and never did anything but get some billboards up. It'd have been a good thing to retire to. Secretary of state's a good office. You can do good service, but it's not so overbearing as some other things. You're never facing issues.

Other Constitutional Officers

Morris: Some of our recent secretaries of state seem to have done that. You know, in recent years the secretary of state's office--

Burns: Yes. Well, there's some more work that's been added to the office since I've been out. But in those days there was no particular problem attached to it, and I thought I could spend about four years in it. I don't know. I was too enthusiastic, I guess. [chuckles]

Morris: At one time the legislative analyst's office suggested that the secretary of state's office and the controller's office could both be eliminated, that they really didn't serve that much governmental purpose. Did that get much hearing in the senate?

Burns: I think so. I think there was that agitation to consolidate those offices and to abolish the lieutenant governor.

Morris: Yes.

Burns: But I never took part in it. In the first place, I didn't have time to study the combining of those two offices to the extent that I could support it. And abolishing the lieutenant governor's office--there was always some friend of mine in there that I didn't want to tangle with. [chuckles]

Morris: That's hard, isn't it?

Burns: Yes. [chuckles] But it's an office that could be abolished very easily.

Morris: Yes. You--

Burns: He's been assigned duties, but in the old days he had nothing to do. He was constitutionally the president of the senate, but he had no vote in there and there wasn't much use of him being the presiding officer.

Morris: After they changed the presiding officer's duties and gave them to the pro tem?

Burns: Yes.

Morris: Yes. Is that the way Butch Powers felt about the lieutenant governor's job?

Burns: Well, I think so. Butch assumed a lot of activities when he was lieutenant governor that he didn't have to. He kept his finger in the pie, so to speak, when he was lieutenant governor. He was a close personal friend of mine and I made no effort to abolish the job.

Morris: Yes. You would have worked with him in the legislature. Wasn't he in the assembly before he ran for lieutenant governor?

Burns: No. Powers never was in the assembly. But I was in the assembly and he was in the senate.

Morris: I see. Was he from your same part of the state?

Burns: No. He was a Republican and he represented a county way up north, Lassen and Modoc. [laughter]

Morris: How did the two of you get to be friends? You said he and you were close personal friends.

Burns: Well, there's a certain bond of friendship that exists with members of the legislature and we just drifted together, so to speak. When I went over in the senate, he was up for election as pro tem and I supported him.

Morris: Ah. Okay.

Burns: As a result, I got good committees and certain little favors that a presiding officer can give you, all things being equal, and he was good in that respect as far as I was concerned.

Morris: You mentioned Helen [Gahagan] Douglas a while ago, and I wondered if her race for the U.S. Senate had any repercussions in California.

Burns: Well, I didn't take any part in that. I didn't, although she ran against [Richard M.] Nixon, didn't she?

Morris: That's right.

Burns: Yes. Although I wasn't a particular friend of Nixon's either at that time, to be absolutely frank I always thought Mrs. Douglas was a little too much to the left for my taste.

Morris: She was introducing legislation concerning farmworkers, and I wondered if that bothered your constituents at all.

Burns: No, not on a congressional level. But as far as her representing the state of California in the U.S. Senate, I wasn't very enthusiastic about that. While I didn't go out against her, I didn't do anything for her either.

1958 Gubernatorial Campaign

Morris: Was your being chairman for Pat Brown an exception in your career? Did you often support other people running for office?

Burns: Not to that extent. We had a delegation of members of the senate, five or six of us, that went to various parts of the state and whipped up enthusiasm for Pat, attempted to.

Morris: Oh, who else?

Burns: Well, one of them was Edwin Regan from Weaverville. He was a member. [pauses to think] Let's see, I'll think of one or two more from here who went by airplane up to the boondocks of the state in our whip-up meetings in support of Pat.

##

Morris: [looking through Mr. Burns' scrapbooks] There you are on the front cover with a gorgeous Mexican hat.

Burns: [chuckles] Yes, my secretary did that when I moved out of the pro tem's office, an accumulation of things. There's documents for this and that. Here's the shovel that I had as a souvenir from some ground breaking ceremony. She dolled all this up for me at one time.

Morris: Oh, that's a treasure.

Burns: [looking at scrapbook] That's [Ronald] Reagan's time, not Pat's time. This is when Reagan came in [as governor of California].

Unruh and I had a little program once a week on the air.

Morris: How did that come about?

Burns: Well, he wanted some television coverage and some newspaper coverage, which I wasn't too enthusiastic about, but I guaranteed to meet with him.

Morris: It sounds like Mr. Unruh's ideas on government were a little different from yours.

Burns: Well, not basically. We got along pretty good. In fact, we didn't have many differences.

Everything there [in the scrapbook] dates from 1968, whereas if we want to go back any farther we've got to get another book.

Morris: Was this traveling campaign team Pat Brown's idea? The group of you that went around drumming up support for Pat Brown, was that Pat's idea or was it your idea?

Burns: Oh, it was Pat's. It was his publicists, all that. He got them together.

Let me get the other book. It goes back a little farther than that one does. [goes to get another scrapbook]

Morris: She sure got the large economy size scrapbook, didn't she? [laughter]

Burns: Oh, yes. I had a smaller one. [pointing to second scrapbook] There's a cartoon a nightclub had of me in the--[chuckle]

Morris: Oh, very nice.

Burns: And she dolled this one up too. [leafing through scrapbook]

Morris: This has got everybody's signature in the whole legislature, it looks like.

Burns: It looks like it.

Morris: January 3, 1957. [reading]

Burns: Yes. That's when I was first elected pro tem. That's when Goody Knight was governor. We ought to see some stories in here about Pat. [continues to look through scrapbook]

Morris: Here's a letter from Pat.

Burns: Yes.

Morris: That's congratulations on your re-election as president pro tem.

Burns: Well, he wasn't governor yet.

Morris: Here's one. [reading from article headline] "Knight bars special session on water problem." This would be--

Burns: Yes. Goody Knight was the one that preceded Pat.

Morris: Right. And the water studies were just beginning to build up to--

Burns: Yes. Here's the first time I was ever acting governor. [pointing to another article]

Morris: Yes. That was October 31, 1957.

Burns: Yes. I guess Pat didn't--when did he take office? In '58?

Morris: It would be January, '59. He won the election in November of '58.

Burns: He won the election. He assumed office in '59. But we were looking towards his campaign. Here he is. [referring to another story in scrapbook]

Morris: Yes. And this story during the election campaign says, "Burns predicts a three-to-five Democratic margin in state senate after the election."

Burns: Yes. And then here is when the campaign was going on. [points to another story]

Morris: Yes. April, 1958. This is another story on the water fund.

Burns: Now, what's all this here? [indicating another story]

Morris: February, '58. [reading from story] "Principal figures in the 1958 budget session of the state legislature."

Burns: Oh. Now, James McBride from Ventura County was in that group too. We were talking about that campaign for Pat. And Senator Luther Gibson from Vallejo. Oh, there's four now. That's about the--

Morris: Yes. We have Ed Regan from Weaverville.

Burns: Regan, Gibson, McBride, and there may have been one other.

Morris: Would all of you go together, all four of you?

Burns: Yes. We had a little plane that we rode in up and down to certain places.

Morris: That would really impress people in the small towns if four senators turned up together.

Burns: Yes, yes.

Morris: Did you get good turnouts at those meetings?

Burns: Yes, the local people showed up pretty good.

Oh, Stan Arnold was in there too, from Susanville. Randy Collier wasn't; he was a Republican.

Morris: Were any of these fellows running for office themselves that year?

Burns: Yes. I didn't devote much time to that because I think I was running for office myself too at that time.

Morris: Did you get him to come over to Fresno?

Burns: I was running for re-election, because I ran at the same time that the governor did. So I didn't spend much time on that. The others went a few more times than I did. They'd have a change in it, you know. They wouldn't always be the same.

Morris: Right.

Burns: And I hosted a lunch in Fresno for businessmen, because Pat was somewhat unknown in the business community. We had a businessmen's lunch to which I invited the heads of the labor unions in Fresno. The secretary of the labor council was there and others. I had them sign in, so we knew who were there, and which furnished a campaign list, you know.

Morris: Sure. Did you have somebody special writing speeches for you on this?

Burns: No. I had an advertising agency take care of my own campaign, but I made several radio talks for Pat that were written by somebody on his staff.

Morris: One of the things we're interested in is the Republican Big Switch that year. Did you think there was any possibility that Bill Knowland might win that 1958 election?

Burns: No, I didn't. Although he was a good candidate, Knowland's time had passed and he got involved in side issues that didn't help him.

Morris: In what way?

Burns: In the campaign.

Morris: Yes. He was campaigning on right-to-work that year.

Burns: Yes, but that's a side issue. That's not important to the public at large. And the issue was defeated at the polls, so I doubt that helped him any; it probably hurt him.

Morris: Right. Well, it was on the ballot the same time he was.

Burns: Yes, as I remember.

Morris: Yes. Did you think that if Goody Knight had been able to run for governor--would he have won, do you think?

Burns: He would have done better. Now, whether he would have beaten Pat or not, I don't know. But, of course, he would have made a better showing than Knowland did, that's for sure, because Goody Knight was a pretty fair campaigner himself.

Morris: Yes.

Burns: Of course, he claimed that Republican money aced him out of the picture, but I don't know if all those things are true or not, are correct or not, I should say, I guess.

Morris: That's what's been reported over the years, that the Los Angeles papers wanted Bill Knowland and told Goody Knight they wouldn't give him any support.

Burns: Yes. They wouldn't support Knight or help him.

Door-to-Door Campaigning

Morris: It sounds like you enjoyed campaigning. Did you like campaigning?

Burns: Oh, yes. I very much liked it. I didn't care too much for the nitty gritty stuff [chuckle] like house-to-house. That's kind of tiresome. But I want to tell you something that I found out; of course, everybody knows that.

There was a little town in my county called Malaga, just a little south of Fresno, and it had about 300 or 400 registered voters in it. They were practically all employees of the Santa Fe. It was the division point on the Santa Fe Railroad. In the primary, I lost that community by a very substantial margin.

Morris: My goodness. So, you went to find out what happened?

Burns: Yes.

Morris: Good for you!

Burns: I wanted to explain it to you. I went from house-to-house campaigning in that town, and I carried it big in the next election, in the general election. So, it shows you the power of personal contacts in the field of vote-getting. And I don't think there's anything better if you can do it. It's work.

Morris: Even with television?

Burns: Television wasn't in there very much at that time, but television will help now, of course. In fact, it's the whole campaign now in large areas like states or nationwide. It must carry the whole burden now.

Morris: But the door-to-door and handshaking is still important for the state legislature?

Burns: Yes. Anything, or even county supervisors.

Morris: Sure, sure.

Burns: All the candidates in small districts do it, you know. A supervisorial district is comparatively small and they can do it. In fact, they call here and they come.

Morris: Do they?

Burns: The supervisor last election--he was up for re-election and he called here and he just worked up and down the street. And that's the thing that wins votes for you. You get in to talk to people, meet people.

Morris: Did you use the same campaign manager from year to year?

Burns: No. I took no part in campaigns after that particular [one], for Brown or anybody else.

Morris: I was thinking of--

Burns: He was on his way then and he didn't need me then. He needed help the first time he ran.

Morris: In '58, yes.

Burns: Yes. But he didn't need any help, although I appeared on a couple of television shows for Pat where they had a talkathon or something. But it wasn't of great moment. My efforts didn't equal the time before.

Morris: Several of the headlines in your scrapbook talked about the Rumford Act, which later went on the ballot. Was that something that you got involved in, the fair housing legislation?

Burns: No, not as an initiative. In fact, the people who sponsored the initiative on the Rumford Act went contrary to my advice. My advice was if they were opposed to the Rumford Act to qualify a referendum, which, of course, if carried, would prevent the other act from becoming effective. But they went ahead and prepared an initiative, which, in the first place, required more signatures, and in it they involved too many issues. They broadened the scope of the Rumford Act, which drew fire from several heretofore--areas that hadn't been involved, although it passed. And the courts threw it out, you know.

Morris: Yes.

Burns: They couldn't do that with a referendum. You just stop. Nothing's done if the referendum carries. And that's what I advised the real estate people to do. I said, "Don't get into a campaign on new stuff, but just stop this from going into effect." It was their repealer that they had on the ballot that passed. I think it was all right as far as constitutionality is concerned, but one of the reasons that it was ruled unconstitutional was the fact that it covered too many subjects.

Morris: Yes. That seems to be what a lot of them are thrown out on.

Burns: Yes, yes.

Morris: On the original legislation, did the senate have trouble with that when Mr. Rumford's bill passed the assembly?

Burns: No, no. The Rumford Act originally was a single-purpose act and they couldn't find that fault with it, but they could with the repealer, the initiative.

Morris: Did the idea of a bill providing open housing for minorities--did the senate take a lot of debate on that?

Burns: There wasn't much enthusiasm one way or the other in the senate for that bill. In fact, it languished in committee almost too long to get it passed. I don't think the issue was as important as they made it. And I don't think as of now, as time goes by, looking at it from this point of view, it didn't make too much difference about it to anybody, whether it passed or not.

Of course, it led into a lot of things, my dear. It led into a spirit, a prevailing spirit, that people wanted to abolish any kind of discrimination.

Morris: Yes.

Burns: But, of course, I think that discriminatory practices can't be outlawed to any extent. We're all discriminating in our tastes. I was discriminating when I married my wife, for instance. [chuckle] So, I discriminated against several people.

Morris: Yes, and I can believe there were several unhappy women about it.

Burns: Yes. [chuckle]

Morris: The whole business of civil rights, however, has caused a lot of discussion in all of the legislatures.

Burns: Yes.

Morris: Is part of that that minorities have been pushing really hard to elect their own members to the legislature?

Burns: Yes. They go to law when they should go to other sources for their help. You know, you have now discrimination against the whites. You have almost as much as the blacks, and all that kind of business.

Of course, the trouble with the acts like the Rumford Act is more the rental of property than the sale of property, you know.

Morris: Yes.

Burns: Property rental, loans of money, and financial institutions. It poses a little problem with them, I guess, because--although I was a loan officer for some time in the savings and loan business, it was a matter of financial responsibility, not your ancestry or thus. If we thought the guy could pay his loan off, why, he got it whether he was black, white, green, or blue.

Morris: I guess the feeling from the black community and from the Mexican community, to a certain extent, is when they see lots of their colleagues unable to buy a house, they begin to feel like they're getting unfair treatment.

Burns: Well, it's a question of judgment, I guess, the individual.

You know, we financed a subdivision in Fresno, the savings and loan, and the contractor went broke, and we had to take the property. But in the neighborhood were predominantly colored and Mexicans, who were on the far side. So, our man who was running it went to several colored ministers and did little favors for them and tried to get them to boost the subdivision.

We sold a house to a Mexican family, and one of the ministers came to Mr. Green, who was handling it, and said, "You sold to a Mexican family and you gave us the impression that it would be for us, for our people, and I object to your selling a lot to the outsiders like that."

Well, what are you going to do in a situation like that? Are you going to tell the Mexican that the Negroes object to his presence in the subdivision? Oh, I don't know. I don't know how you can bring about these social changes by law. I really don't, never have figured it out.

Morris: Is it something that the legislature is more comfortable having passed on to the courts?

Burns: [laughter] I think maybe that's the answer. It could be. I don't know. I really don't.

The courts are active in coming to a solution in all these cases, but my personal opinion regarding that didn't amount to too much.

Morris: You didn't get involved in it one way or the other, either pro or con?

Burns: Well, I introduced a repealer at the request of several members of the legislature on the Rumford Act. I got it through the senate. My basis was not so much the act itself, but because the people had turned the act down in the form of adopting a repealer, and in my county the vote was heavy, heavily one-sided, and I felt as though I had an obligation to carry out the will of the voters in the thing. So, I went to that extent.

I got it through the senate. It went over and was amended quite extensively in the assembly and the senate wouldn't confirm the assembly amendments and it died in the conference committee. But that's the all extent that I went. I took no part in the referendum or in the initiative repealer at all. And when the courts held it unconstitutional, well, I devoted my energies elsewhere.

Morris: Did you get to know Mr. Byron Rumford at all himself?

Burns: Oh, yes. I knew him very well. He was a fine man. He was all right.

Morris: Didn't he run for the senate himself at one point?

Burns: Yes, he did, and he was beaten by--[pauses to think]. I can't remember the man's name either.*

Morris: I remember there was some question about the election itself. There was recounting of votes and it was a contested election.

Burns: Of the votes in Rumford's election?

Morris: In Alameda County, yes.

Burns: I vaguely remember some point that was raised, but I don't know what it was.

Morris: Well, you know, that went through the courts in Alameda County. But I wondered if it would have made a difference if Mr. Rumford had been successful and had been able to, you know, speak--

Burns: No, I don't recall. It wasn't brought up in the senate.

Morris: Well, he didn't get elected.

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*Lewis Sherman (R, Berkeley). For a fuller account of this contested 1966 election, see William Byron Rumford, Legislator for Fair Employment, Fair Housing, and Public Health, Regional Oral History Office, University of California, Berkeley, 1973.

Burns: Yes. Of course, that's what they'd have to do, decide on seating someone in a challenged election, one way or the other.

The Board of Equalization and Liquor Control

Morris: I think that's covered about all of my questions. Oh, I know. Did you talk with my colleagues at all about the role of the lobbyists, if there were any that were particularly helpful to you or any that--?

Burns: Oh, I didn't talk to anybody, as I recall, about them. You see, when they adopted this new initiative law, Proposition 9 they call it, which set up the machinery to--

Morris: The Fair Political Practices Commission?

Burns: Yes. I was out of the legislature at that time, and I don't know. I'm entirely unfamiliar with the effect of it.

Morris: I was thinking about earlier. In the late '40s and up through the early '50s there was a sort of a continuous effort revolving around liquor licensing, I think, to have some kind of legislation about lobbyists.

Burns: If there is, I don't know of it. This idea of whether a lobbyist can buy a drink for a member or a meal or whatever it is, I never paid much attention to, because, as I say, I was out of the legislature and I didn't run into any of it. I don't circulate around as much as I used to.

Morris: Right. I was thinking about when you were in the legislature, when--well, Casper Weinberger was a young Republican and there was--

Burns: Oh, oh. When they took it out of the Board of Equalization.

Morris: Right. The liquor licensing. And that was supposed to be related to some problems with lobbying.

Burns: I never knew they took much interest in that at all. I think most of the interest in it was manifested by the Board of Equalization, which was divided on the subject. Certain members of the board wanted to keep it and other members wanted to get rid of it. But I don't remember much of a contest among the advocates of one way or the other in it.

Morris: There was Bill Bonelli. He had been active in the Democratic party, I think. He'd been on the Board of Equalization.

Burns: Yes, Bill Bonelli was a member of the board from down in the southern part of California, and they claimed they had a lot of evidence of hanky-panky, but I am not familiar with it. So, he left the country and evidently he was concerned with it. But I don't remember too much, how and what the sides were drawn in it, if any, legislatively speaking.

Morris: It came to a head, I guess, about 1954 and the Democratic candidate for governor that year was Dick Graves, who had been--you remember?

Burns: Oh, yes.

Morris: He was head of the League of California Cities and then he ran on the Democratic ticket.

Burns: Yes, I remember that. The main part has a touch of irony in it, which I'll tell you briefly. The way the bills and measures were drawn up, I thought they gave the director of the department of alcoholic beverages too much of a final say, and several others did too.

So, Senator Desmond and I passed a bill which set up an appeals board which could overrule the director of the department. Subsequently, when I left the legislature, I was appointed to that appeals board [chuckle] and I sat on it for five years.

Morris: [laughter] Oh, that's marvelous.

Burns: I never expected it.

Morris: That's marvelous.

Burns: But very seldom did we reverse the department. It was handled smoothly and judiciously and there was never a case for us to take issue with.

Morris: So, the director ended up doing a pretty good job?

Burns: Yes, yes.

Morris: That's a nice irony that you ended up being appointed to that. Did Pat Brown consult with you at all when he was making appointments in your area, judges and whatnot?

Burns: Well, yes. He asked me if I had any objections to some of the appointments he made, but it was more or less generalized. I very rarely objected to an appointment that the governor had made. It's his risk and his job. If he appoints a bad one, he gets the blame. So, I recommended several appointments to him. Some he made, some he didn't. But I never carried it to the extent that it concerned me a great deal.

Observations on the Democratic Party

Morris: I wondered if you got involved particularly in organizational things, if you would have worked with the state Democratic party leaders. Bill Malone is a name that comes up in our researches. Would you have worked with him at all?

Burns: No. I avoided all these controversial subjects. Unless a man was, or an individual personality was, personally objectionable, I didn't take any part in it. It's the concern of the governor, as I said, and I let him run his own business.

Morris: Yes, right. And your feeling is that the state Democratic organization is more concerned with the governor than it is with legislative races?

Burns: No, I took no part in the party activities to amount to anything significantly, you might say. I didn't. In fact, the Democratic party went so far out that at times I objected to it somewhat and its philosophy.

Morris: In what ways?

Burns: Oh, things that they advocated. I can't recall any particular ones now. Some of the ADA [Americans for Democratic Action] recommendations I didn't agree with.

Morris: In civil rights and the welfare area generally?

Burns: In the welfare programs, some of them I didn't take kindly to, but I can't be specific because I can't recall any of it.

Morris: Well, there certainly has been a lot of it. Would this include things like the California Democratic Council, that grassroots bunch that Alan Cranston—?

Burns: Well, you know, it's peculiar. I differed with them and a lot of those liberal ideas too. I was more conservative in my viewpoints than they were. In fact, I never attended any of their meetings but two or three. They used to hold their meetings in Fresno, you know, all the time.

Morris: Yes.

Burns: And being from Fresno, I attempted to be somewhat gracious to them, to sort of mend the fence. But in the main part, it was that we'd built up a Frankenstein that we didn't know what to do with, you know.

Morris: In the party, or in government?

Burns: In the party. It was all party activities.

Morris: The California Democratic Council was a kind of a Frankenstein attached to the Democratic party?

Burns: Yes. I think it's a wart on the body politic. [chuckle] I consider it that personally.

Morris: [laughter] You've really seen quite a lot of change in the Democratic party since you got involved in it in the '30s.

Burns: Yes. Oh, yes. Yes! It began to go too far to the left, in my estimation, in their advocacy of certain programs.

Morris: That's interesting, because when you go back to when Franklin Roosevelt was first in office--remember?--he was considered by an awful lot of people to be, you know, straight out of a communist textbook; he had such far-out ideas.

Burns: Yes! Yes, there was quite a feeling along those lines.

The Democrats were out in opposition to the cross-filing, for instance. There's a big issue. They got an initiative to the legislature qualified. It's a measure that's very seldom used because the legislature has a right to turn it down. We had a committee hearing on it, of which I was chairman.

Morris: On cross-filing?

Burns: On cross-filing. Quite a ways back. The first issue we ever had on it.

Morris: Right. In '57 or something.

Burns: Yes. And the committee, which was composed of three Democrats and two Republicans--and we turned it down unanimously, recommended against it.

Morris: Recommended against abolishing it?

Burns: Yes.

Morris: Yes. Okay. You thought you ought to keep cross-filing.

Burns: Yes, cross-filing. And those party issues I couldn't get enthusiastic about. Cross-filing was one. If the Republicans wanted to nominate a Democrat for office, or vice versa, that was their business. I didn't think it should be interfered with. It served its purpose in the old days and I thought it served its purpose today. It was established during the Hiram Johnson regime, you remember.

Morris: Yes.

Burns: And that was one point of difference I had with the activities of the Democratic party as such. Other things developed, but they were side issues as far as I was concerned. I was a product of the Democratic party and if somebody wanted to know, who wanted to change my position and change my party, I said, "No, I'll dance with the girl that brung me!" And that was it. [laughter]

Morris: Do you mean that Republicans asked you if you'd come and join their party?

Burns: Yes.

Morris: Really? When was that?

Burns: Oh, that was quite a while ago. It was back in the '60s some place.

Morris: Really?

Burns: Yes.

Morris: That's interesting. Why did they think you might [switch]?

Burns: Well, there was quite a bit of dissatisfaction among the Democrats at that time with various issues, two or three of which I was opposed to. In other words, the radical Democrats or the so-called liberal Democrats claimed I voted like a Republican. And the Republicans--it was a press article. The Republicans wanted to know if I wanted to join their party, and I said, "No. A plague

Burns: on both your houses. I don't want either one of you!" [chuckles] And I told that to a group of newspaper reporters and they used it in some kind of a wire story.

Morris: [laughter] Oh, they would like that. They would like that very much.

Burns: Yes.

Morris: Do you think that that is true basically, that the left and the right wings of the Democratic party are so far apart that the conservative Democrats are really closer to Republicans now than to other Democrats?

Burns: Well, I don't know about now. You've got things divided up pretty equally now. You've got radical Republicans as well as radical Democrats. I guess you might use a comparison between Nixon and that senator from Dakota. What was his name? He ran against Nixon the last time.

Morris: George McGovern.

Burns: Yes.

Morris: Right.

Burns: Now, there's a good example.

Morris: You don't think that McGovern is your kind of a Democrat?

Burns: No.

Morris: You're closer to Nixon than to McGovern?

Burns: Well, [chuckle] I don't like to admit that either, but I guess it is right.

Morris: What would you say is the thing that pleased you most about your years in the legislature? Any particular field of legislation, or--?

Burns: Well, I think the most important thing I've ever been party too--I've got a resolution here on it--was the California water act. It's here some place. [looks through papers] All the members of the senate and the assembly who gave it their support. I had to oppose several very good friends of mine in the senate on that, but for all concerned I thought it was the best thing we could evolve. Pat Brown was very instrumental in the success of the California Water Plan, the Oroville Dam and all that.

Morris: Yes. Who was opposed to it? Was it senators from further north in the state?

Burns: No. Most of the opposition came from what we called and they called themselves the "river rats." [chuckle] From here on to the Sacramento River, Contra Costa County and Solano County and--

Morris: Along the sloughs and the area that is now--

Burns: Yes. Along the Delta, you might say, yes.

Morris: Yes. Well, that debate still hasn't been settled, has it?

Burns: Well, they're dreaming up arguments on it. It's settled as far as we went, but new problems are still pending.

Morris: Yes. But on the original legislation, did you feel that the north was giving the south more than it got?

Burns: To a certain extent. My personal viewpoint is that I got on in the legislature because I never tried for too much. I was the oldest member in point of service and I was able to obtain in the way of legislation everything I ever asked for for my district. Services I performed for my district were responsible for every success in the world in my work in the legislature.

My advice to the kids when they come up Sacramento is: Remember your duty is to the people who elected you. Your first consideration should be your district, then the state, and then, if you want, the welfare of your party.

III RECALLING ISSUES AND EVENTS IN THE SENATE

[Interview 2: April 5, 1977]##

Radical Surgery: Reapportioning the Senate in 1966

Fry: Do you have some idea what our project is trying to do?

Burns: Yes, but you know it's a funny thing. Since I retired from the legislature my mind is rather in another field. I don't know what happened to it. I don't think much about those days. It's not an important thing to me anymore. I guess that's the main reason why. It's hard to recall some things, you know what I mean?

Fry: You're in another whole life now, aren't you?

Burns: Yeah. See I left the legislature in 1970. I was appointed by Governor Reagan to Alcoholic Beverage Appeals Board and I was in there six years. And that state of activity predominates. But I reminisce every once in a while with some old timers. We have a lunch about once a month, bring up old things.

Fry: Who meets with your lunch?

Burns: [trying to recall names] He was in the legislature at the time I was there; only went out last Demcember. (This is where I have my trouble.) Now I remember--Randolph Collier. I have lunch with Collier usually, and a newspaper man usually comes, too.

Fry: Is that Rodda or Herb Phillips?

Burns: No, the one I am trying to recall is a free-lance writer. He syndicates a column.

Fry: From Sacramento?

Burns: Yeah, out of Sacramento. He's got weeklies and a daily here and a daily there. He spent some time in the marines during the war. He organized the Western News Service.

Fry: Copley?

Burns: No. That's a big one. I'll think of his name in just a minute. [pause] Earl Waters. That's the one. He writes this column in the Sacramento Union. So he shows up for lunch and then we get some of the old members of the senate like myself and Collier, a few now and then, once in a while. They don't come regularly. They come about four times a month. Some are out of town, of course. [Harold J.] Butch Powers, former senate pro tem and lieutenant governor, comes for lunch occasionally. We'd talk, "Oh, wouldn't it be good to legislate procedures," and things like that.

Of course, all of us old timers were shook up a bit, I should say, when we implemented a U.S. Supreme Court decision on abolishing our senate, the "one man-one vote" business.

Fry: The reapportionment?

Burns: Yeah, that's right, which handed everything to the cities, you might say. We had a difficult time functioning with that set-up. We got a majority of the membership directly over from the assembly, former assemblymen, you see.

Fry: Oh, because so many ran for the senate in the new districts?

Burns: Sure, the old senate had forty members and the reapportionment gave them twenty-two former assemblymen in that election. So there was a majority of former assemblymen in the new senate.

Fry: What did that mean in terms of the character of the senate?

Burns: Well, what it meant, of course, was that if the leadership changes eventually all your officers change. And the legislation which was considered, of course, was that which would benefit the southern end of the state. That's where the majority of the senate membership came from in the new senate.

And the new senate interfered with the rules. We had, for instance, seniority rules. You could never be appointed chairman of a committee your first term. Your second term you could, as a rule. With all the new members coming over, they wanted to take seniority that they had for the assembly--which had never been allowed before. If a man served five years in the assembly he wanted five years started on senate seniority. That, of course, was a revolution [laughter] to put it mildly! And the senate set-up: I don't say it was too bad, but it was a disturbing factor.

Fry: Did many new ones get in as heads of committee?

Burns: No. Not right away. Let's see, we had reapportionment in '65, didn't we?

Fry: Yes, and I think '66 is the election you're talking about.

Burns: Yes, and I went out of the senate for retirement in '70—the end of '70, so I wasn't around to watch the development. But I'd served in the assembly; I know what that meant too. Six years in there. It meant, of course, over in the assembly you had individual ambitions. But over in the senate you were supposed to subject your ambitions to the old timers. You should be seen and not heard too much--

Fry: If you're new.

Burns: Yes. And of course that change was a disturbing factor.

But it's gone on now in another vein. Partisanship is more prevalent now. The old days, why we had no party caucuses, we had no floor leaders and that kind of stuff. And we weren't subject to the will of the caucus. We were subject to our own constituency. I always told the young guys coming up, I said , "When you're up here, your district comes first, the state second, party activities third. Be sure you carry out the wishes of those who voted for you," which wasn't hard to do after you were there a while because you understood your constituency. But every ten years population shifts changed the apportionment of district lines. So it was a more difficult job. Now senators have the party caucus which meet and I'd see where the Republicans in the assembly have made their caucuses open to the press. The Democrats haven't. And there's a prevelance now that didn't exist before in the legislature in that the caucuses take a position. It's supposed to be a party position, and you're expected to a degree to abide by their findings. Of course even over in the assembly, they always had caucuses when I came up there in the '37 session, and I would refuse to be committed to any particular program. I attended very few of those party caucuses. When Olson was elected governor, he called 'em once in a while, both houses. I used to attend those because I considered the governor's request as...what do you call it?

Fry: Command--

Burns: Command performance! [laughter] Yes. And I saw that which I am pleased to call the rise and fall of the Republican party [laughter]. And for that reason I'm a Democrat. I've been a Democrat. Came up here as a Democrat. And I was started with the Democrats because of states' rights and principles of the party I agreed with. But after a while they developed ahead of me.

Fry: What do you mean?

Burns: Their advancement was faster than mine. I couldn't absorb the philosophy and the ideology and leadership of the Democratic party.

Fry: That was along when?

Burns: Oh, I would say in the '50s. Beginning of the '50s.

Fry: As the CDC [California Democratic Council] was coming into power?

Burns: As they came into power. Yes. I never could see eye-to-eye with the CDC, oh, the laws covering special minority groups like FEPC [Fair Employment Practices Commission] and that kind of thing--which I believed in moderation. I didn't believe in setting up the penalties that they did.

Fry: Making government responsible--

Burns: Yes. They came to a mood and they'd rag it like a dog gnawing on a bone. They wouldn't let go. This racial discrimination: We got along all right with all races in this state. We didn't need any particular revolution in the civil rights program because here in California, at least (I don't know about other states so much) there were no civil rights denied to anybody on the basis of color or creed. We never had any Jim Crow laws like they had in other places.

So I served as the head officer in the senate longer than any of my predecessors or anybody since--thirteen years as president pro tem of the senate--who was elected by the membership. And my philosophy and the philosophy of most of the senators was that we wanted the senate as a whole to look good, feel good, to be responsible and all those things. And nowadays it seems to be that it's each man for himself. Not so much the senate in the state of California but the Democratic party and the individual members. It comes from a selfish attitude. But that's the way things are. Somebody once said, "There's nothing more permanent than change." I don't know. Maybe for the better.

Byron Rumford's Fair Housing Act and Aftershocks

Fry: What about Rumford's Fair Housing Act and Proposition Fourteen? Did you find that that was equally devisive in its impact on the senate in the election?

Burns: No it wasn't, should we say, in its application. Now there was quite a row about Rumford's Fair Housing Act. But I think I voted for it in the long run. I'm not sure. I don't remember but I think so. In committee I posted--

Fry: Was that the Rules Committee?

Burns: No, that was the Committee on Governmental Efficiency. And I was a member of it. But it was subject to repeal in the form of initiatives. It wasn't subject to a referendum. But I opposed that too, you know. I went to the sponsors and said, "Your only out is submit the referendum act." No, they want to add to it, you see. More penalization clauses and all that. So they started an initiative and in the meantime the Rumford Act was enforced. And then their initiative failed to repeal the decision of the court. The initiative passed according to the vote.

Fry: Yes, the Rumford Act was repealed and then the California Supreme Court said the initiative was unconstitutional.

Burns: Yes, the initiative that they passed was unconstitutional, repealing the Rumford Act. But it wasn't the fact that they wanted to repeal it. An out-and-out repeal it would have been all right, but, no, they added to it a lot of things. It didn't say to repeal the Rumford Act. No, the body of the bill that they submitted to the people, among other things, covered the waterfront.

Fry: And made the Rumford Act itself more punitive if it had not been repealed?

Burns: Yes. It was--

Fry: --A stronger Rumford Act if the proposition had lost? Is that what you're saying?

Burns: Well, I'm saying that it's kind of hard for a lay person to get this. There are two ways in which you can repeal an act that passed from the legislature. But it repeals the identical act—a referendum. Five percent of the ones who voted for governor last year qualify for the ballot.

There's another way in which you can get it on the ballot--the initiative. It takes eight percent of the governor's vote to qualify. Now, in this so-called initiative, it just had a line of repealers in it--repealed the Rumford Act, number one. But then it went on to embellish the powers of landlords and transfers of property and all that. It even made it more difficult than the present law did. And it's all these other items that the court objected to.

Fry: And you think that's what made it unconstitutional?

Burns: That's what the court said. But nevertheless, then the Rumford Act all that time was being enforced. So it changed nothing, actually. The result is zero. But I guess it was all right. It hasn't caused any trouble that I know of.

Fry: Now let me see if I understand your position on it. You were opposed to the Rumford Act in committee.

Burns: Yes.

Fry: But you were for it on the floor of the senate?

Burns: I think I voted for it on the floor. I'm not sure. And I opposed the initiative. I thought it was no good. It had too much restrictions to it.

[pause in conversation]

Fry: Those would be restrictions on apartment house owners and people like that?

Burns: It would impose restrictions on landlords and all that, and the sale of property.

Fry: I need some guidance from you on what you see as the most important legislative achievement of this period, or legislative defeats, either way. In other words what do you think would be the most important things for history to document?

Burns: Well, of course during the [Edmund G.] Brown [Sr.] administration, I worked closely with Brown, of all his eight years of incumbency. I think the biggest achievment during that period was the passage of the California water act. Brown advocated the passage and asked me to handle the bill for him. It eventually became, during the course of the passage, the Burns-Porter Act. Personally, it was my biggest achievement during that period of time and also, considering the work that the governor put in on it and the support he gave it, I think it's his greatest achievement. He spent so much time in the last election talking about his opposition, he forgot to brag about himself, I think.

Fry: In '66?

Burns: Yes. And he was making fun of Reagan as an actor and all those things. I think he missed the boat, but that's an opinion that may or may not be justified.

Fry: Well, it was carried out by the election returns.

Burns: [laughter] Yes, I think so.

That water plan was the greatest thing that happened in California during those years. It was very much opposed by some of my best friends [laughter] who we called "River Rats."

Fry: Was that the Delta group?

Burns: The Delta group, yes. I pointed out at the time that in buying the bill, we'd take surplus water, not water that's needed in the Delta or any place else in northern California. But it's funny. Eighty percent of the water demand is in the south. And 90 percent rises in the north, I think. That's the problem with California, I think. But if we're not making use of our water, why not send it where it's needed? That was my argument.

Fry: Just off the top of your head, what do you remember of the battle in committee for the Burns-Porter Act?

Burns: In the water issue?

Fry: Yes.

Oh, you got your new California Journal here.

Burns: Yes, that came today too. It gives a percentage on water needs. Go and check it out, see if I'm wrong. Eighty percent of the need was down south.

Fry: Yes, it says that 80 percent of the water need occurs in the southern two-thirds of the state. Three-fourths of the precipitation occurs in the northern one-third of the state.

Burns: [laughter] That gives you the percentages. I was looking at that thing today—the California Journal--I saw that in there.

Well, going back farther, I was in office in Goodie Knight's administration, too. But the highlight of Goodie Knight's term of office is, he was more concerned about the mounting expenditures, the fiscal problems that we were being faced with. And in a very level-headed approach, according to my end of the "jewel opinion." And he kept warning us. And that went over into the Brown administration. The same problem. And right up to the end Brown was saying we'd have to have new income, new taxes. Well, nobody was very anxious to levy new taxes.

But when Reagan took office, the need was so well apparent that we had a tax program enforced.

Fry: In other words, the picture in a nutshell is that the legislature held the line pretty well on new taxes, through Knight and through Brown.

Burns: Yes. Yes, they did.

Fry: And finally with Reagan the legislators gave in.

Burns: Yes, [soft laughter] it was brought home to them more and more all the time of course. And during Reagan's administration we were forced to practically enact a new tax program. Everybody's hollering for--what we needed was a tax, what would you say--

Fry: A comprehensive tax?

Burns: No, a study, and tax reform. You know, everybody's hollering about tax reform.

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Burns: So we really have never had what they call in California "tax reform." We've had all the alterations of the tax structure, I would say, but it came apparent that we would have to levy more taxes during the first part of Reagan's administration. And that's what we did.

Now the other problems that seem to be pressing today weren't so imperative in the days passed. For instance like gun control, indeterminate sentences, death penalty, and all those things.

The Caryl Chessman Case

Fry: The death penalty you felt was not an important issue?

Burns: No, we didn't think too much about it, although there was a repeal of the death penalty proposed in later years. It'd never pass the senate. It was passed by the assembly and came over to the senate. But the senate always rejected it. But the death penalty wasn't the primary concern it is today. Of course the thing that's given an impetus to the death penalty concern is the increase in crime. That builds it up.

Fry: I'm a little puzzled about how important that whole flack was over the Chessman case and the bills that were put into the legislature regarding the death penalty. Do you see that as important or having any implications?

Burns: It was noisy. I will admit that. But the fact of it was, the timing was more important than anything else. Brown put on the special session call--that item for repeal of capital punishment, which bothered him during the Chessman case. I don't know why he didn't commute Chessman's case to life imprisonment or something. Maybe he couldn't. Maybe the guy had a prior conviction or something. I don't know. But anyway it was much ado about nothing. The guy had been tried, convicted, appealed and all that; his legal remedies were exhausted. The main legislative problem was the governor's putting it on the agenda for the special session. That was what brought the whole thing to life.

Fry: You mean that's what made it such a controversy?

Burns: No, that's what made it so much talked about. He got press notices out of it because the death penalty issue was the only item on the special session agenda and there wasn't all these 5,000 other things that senators had to talk about. You see?

Fry: So you don't see that then as all that important?

Burns: No! Over the repeal? No one did. We had to spend a couple of weeks in special session, bother with trivia, ya know? That's what gave impetus to the "hullabaloo" I called it.

Fry: So that was just kind of bad timing on Pat Brown's part, as strategy.

Burns: Yes, I think it was. Yes.

Fry: Do you think it had anything to do with his defeat in '66, which was another election away?

Burns: No. I don't think so. I just think Brown overemphasized the weakness of his opposition. That was due to the election more than anything else, because Brown was a good governor. He tried. But Reagan was also a good governor. Because Reagan was an actor was nothing against him.

Handling Legislative Operations

Fry: In the legislature, did that senate committee--the governmental efficiency committee (now called the governmental organizational committee)--handle a lot of the really important bills of those people who had the power in the senate to put them through? Like yourself and others?

Burns: Well, we used to throw everything in there that had no specific place to go. And we placed in that committee all horseracing bills, all liquor control bills that specified in the rules; we placed all new programs in that committee, and anything else we thought should be handled in there.

Fry: You could choose your options for bills it would handle, then.

Burns: Well, on assignment you could. The committee was exceptional in this regard: that they met before the hearing of the senate bills and had the bills explained to them by a member of the legislative counsel; who was for, who was against and all those things. So we got a firm grounding in the content of these bills.

Fry: Did you have supporters and opponents of the bills?

Burns: Not at these private meetings. They'd come on at the hearing. We had the bill legally explained so we knew what was in it--more or less, of course.

And that system was put in effect way back in '44 or '45 when Ralph [E.] Swing from San Bernardino was chairman of the governmental efficiency committee. Some of the bills went through so fast that none of us knew what was going on or what "Uncle Ralph" was doing. So we used to meet without him.

Fry: You did? Without the chairman?

Burns: Without the chairman.

Fry: Are you saying that that's why the committee met before the hearings got started?

Burns: Yes.

Fry: You tried to meet without Swing.

Burns: That's right. And then the chairmanship changed to [Harry L.] Parkman of San Mateo County. And we all met <u>with</u> him. We still had this special legal man assigned to us. We had the meeting the afternoon before the hearing the next morning, see, and so we knew what was in the bills; all of the criticims were attached, in that system that we had.

Fry: They felt that it was decided before the hearing.

Burns: Yes. Oh it never was absolutely decided, although a lot of committee members made up their mind I guess. Yes, that happened way before the press got onto us. It was long <u>years</u> before the press caught on.

Burns: The funny thing we never made any move to conceal it. The press could sit in if they wanted to.

Fry: Oh, it wasn't definitely closed?

Burns: No. At no time.

Fry: I thought maybe that's what gave rise to the Brown Act. I think the Brown Act was early '60s.

Burns: The Brown Act came mostly afterwards. But we would meet informally you see. And we had a consultant for the committee and this assignment from the legislative counsel.

So the press jumped me about it. I says, "It'd just make me feel good all over if every committtee in the house did that. Everyone." But we got briefed on the contents of each bill--every time we were meeting. Nobody could put much over on us, not even the chairman.

Fry: But the legislative counsel does that for every bill that's heard, doesn't he?

Burns: But we got a consultant. He didn't have to be a member of the counsel. They have a consultant now in the senate, which is all right, no quarrel with that. But we were in it from such a stricter legal point, as well as the overall debate considerations. And we would suggest amendments to him, too.

Fry: To the legislative counsel.

Burns: Yes, he'd have 'em ready by the time the committee met for hearings. It worked out all right.

Fry: It sounds like it was a lot more efficient.

Burns: Yes.

Fry: What about the power of the lobbyists in meeting away from a formal, scheduled hearing?

Burns: They weren't there. Nobody seemed to give an argument. They would give their arguments to the consultants. Such-and-such an interest is for it. And their reasons. So they'd come before the hearing. It worked all right.

Fry: Who was the legislative counsel?

Burns: Well, there were three of them. These are definite counsels, staff men, people you know.

Fry: Are they still around?

Burns: Yes, very much so.

Fry: I bet they know a lot.

Burns: Oh yes. The legislative counsel up in Sacramento until last December was George [H.] Murphy--he'd assign a man to us even if anybody else had wanted one. They were the legal arm of the legislature. They'd do all the bills, answer constitutional question, anything that comes up in a legal way.

Fry: Well, what other committees were powerful?

Burns: Well, the Ways and Means of the assembly and the Finance Committee of the senate. The Finance Committee had the power of death over all bills you might say, especially if it had any money, and very few bills didn't have money. I finally got off of it because it was a laborious system we had. We had budget hearings and all bills like that. In fact all appropriation bills had to go to the Finance Committee. You passed the policy committee and then if it failed you had to go to Finance. If there was an implied cost it still had to go. And there was the duty of the man on the floor--the pro tem on the floor to catch those things and the legislative counsel would check the legality and give you a note on 'em. You'd refer them to the Finance Committee.

So I would say that they're the top dog of the major committees. [chuckle]

Fry: Was that during the Knight administration when you were on the Finance Committee?

Burns: No. I resigned from the Finance Committee in the last term of my office. I was on it several terms before, you know. You couldn't very well be a member of that Finance Committee and take care of the office of the president pro tem at the same time. Certainly they'd land at both ends of the day.

Fry: Did you handle a lot of Reagan's legislation too?

Burns: No, not as much as I did Pat Brown's. Deukmejian, Senator Deukmejian handled almost all of it. [pause] The tax bill he did, and some of the other important bills.

Fry: I was thinking of another committee--the Senate Rules Committee.

Burns: I was chairman of the Senate Rules Committee the whole time I was president pro tem. You had to be.

Fry: Does everything have to go through the Senate Rules Committee?

Burns: No, senate rules is empowered to assign the bills to committee. It is also concerned with the appointment of committees, the appointment of all housekeeping chores of the senate itself like how much do you pay this guy or that guy, and who authorizes the forms of certain bills.

We passed on, where it was required, the confirmation of all the governor's appointees. Some appointments don't require senate confirmation but appointment to the board of education, for instance, required senate confirmation. And then that went to the floor. The law also provides that a member of the board, the State Board of Education, be appointed by two-thirds of the membership. I remember that especially because two of the appointments I was particularly interested in required twenty-seven votes, but not twenty-one. The State Board of Education, I know that one does--maybe some others do. When I was in the senate, we had more appointments through confirmation of the senate. That was thanks to George Miller, Jr. from Richmond, who sponsored that. And I think it's even more prevalent today than it used to be, that all but judges, who presumably are elected to office--

Fry: But never are.

Burns: No.--Have to be confirmed.

Fry: So all the governor's appointees now have to go through senate confirmation?

Burns: Most of them do except his personal employees, his executive secretary, for instance.

Fry: Did Brown have any really controversial appointments?

Burns: Only one that I remember. That was the appointment of a guy to the State Board of Education. He ran a newspaper down in Newport Beach, in that area. I've forgotten his name now, but he was also a writer for a candidate for president. Who was he? Thomas W. Braden, of the Blade-Tribune in Oceanside. He wrote a column in the paper and was the publisher. He supported the guy that ran against Nixon--the last time Nixon was elected, who was the candidate? I'm talking about the candidate himself, who was a member of the senate. Name begins with "M" I think. In the primary, this guy had a run-off in the general election.

Fry: And it's not George McGovern?

Burns: McGovern, that's it. And Braden worked for his campaign.

Burns: Pat Brown nominated Braden as a member of the State Board of Education. Well, the Rules Committee recommended that the senate "do pass" the nomination. And between the time it came out of committee and the vote, there was a rule of objection to him on the floor, from San Diego especially. A delegation came up for the Rules Committee hearing we had. Brown thought it was a big deal, and I handled the appointment for Brown. It passed on the floor of the senate without any trouble at all. But that was the only time that Brown had any problems with appointments.

Fry: And this was the San Diego crowd?

Burns: Yes, that opposed it.

Fry: What about Knight's appointments? Do you remember any of those?

Burns: No. Routine matters were handled, more or less, as a routine matter. Knight never had any trouble with whomever he appointed.

IV REVIEWING THE COMMITTEE ON UN-AMERICAN ACTIVITIES

Assuming the Chairmanship

Fry: Now let me see. You also had the Senate Un-American Activities Committee?

Burns: Yes.

Fry: Was that committee a full committee or was it a subcommittee of one of the others?

Burns: It eventually became a subcommittee.

Fry: Of what? Was that after your time?

Burns: No. It was in my time. We made it a subcommittee of something. What the hell was it?

Fry: Was it Rules Committee?

Burns: Well, it could have been. [sifting through reports] Wait, maybe I could tell you. The Senate General Research Committee.

Fry: The reason I felt maybe it was the Rules Committee is that there are papers on that, but in order to see them in the archives, you have to get permission from the present Rules Committee.

Burns: Oh, do you?

Fry: These must be in our documents library. [referring to Burns committee biennial reports]

Burns: I received back in 1970 the Fifteenth Report of the Senate Factfinding Subcommittee on Un-American activities. [looking over documents]

Fry: It doesn't say what it's a committee of, does it? In 1961 you were a subcommittee also.

Burns: Yes.

Fry: Well, that's all right. That's not important, I guess.

Burns: No, I don't know why we did that transition to subcommittee. I think in the money or something. We decided to turn the committee into a subcommittee.

Fry: Well, I was wondering if there's any way of getting the papers open so our project could look at those papers and some of the other committee papers in the state archives before we do any further interviewing of you. That way we could see what the hearings were like and what the major inclination was. Does this have hearings in it? (referring to documents) These have some hearings, don't they?

Burns: Has 'em all. It isn't a word-for-word verbatim report but it tells of the hearings we had. Findings are especially important. I can bring up to date these things if you want 'em cause these are official. I think if you went to the documents library--I don't know, it's departmentalized—but these should be available for you. These are all public.

Fry: [pause-writing down information] Senator Factfinding Subcommittee on Un-American Activities. And that went on through your career in the senate, didn't it?

Burns: Well, practically all. I was on the committee, but I wasn't chairman of it originally. Jack B. Tenney of Los Angeles was chairman of it until 1949. While he was running for office in 1950 I inherited it.

Fry: And then you were chairman of it until when—1970?

Burns: Yes, until I retired in 1970.

Fry: Now do these reports come out every two years?

Burns: Yes. They don't come out any more at all. They came out once a session which at that time was every two years.

Fry: 1961 was the eleventh report.

Burns: No, I can furnish on a loan basis any of these reports you want or all of them.

Fry: We'd like to have a set for our office, if you have one.

Burns: Well, I had one but it was the only copy that I had; it would have to be on a loan basis.

Fry: Well, maybe we could get a set out of the documents library in Berkeley. Maybe they'd let us bring it up to our office.

Burns: A lot of them are not in print anymore of course.

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Fry: You were on the Un-American Activities Committee for twenty years?

Burns: Yes.

Fry: You were on it as an assemblyman in '41. So you were the senior person when Tenney went off and that's how you got on it. What were the most important years?

Burns: The important years were at the time, the early 40s I'd guess you'd say, when Tenney was the chairman. It came into being during the Depression years--in 1939 I think. It was chaired originally by [Samuel W.] Yorty, who was the assemblyman and later mayor from Los Angeles.* And they abolished that, made it a joint committee of both houses when Tenney took it over. Yorty went someplace else. He went to congress or something.

Fry: He became mayor of Los Angeles!

Burns: That came after.

Fry: And then you became chairman in what year? Do you recall?

Burns: No, not off hand. I'd say in the opening, when it was created in joint Factfinding Committee of Un-American Activities in '41. I was elected chairman of the senate committee in '49.

Fry: So you became chairman in '49.

Burns: Yes.

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*Yorty was chairman of Assembly Relief Investigating Committee created in 1940. In 1941, this committee's functions were transferred to newly-created Joint Legislative Factfinding Committee on Un-American Activities, chaired by Jack B. Tenney.

Fry: So it wasn't Tenney, it was you who was chairman in the early '50s.

Burns: Yes, I think most of the activities of the committee were in the '40s, not '50s.

Fry: Most post-war-type things?

Burns: Yes, but during the war, too. We went in the war in '41, didn't we? Well, all through the war and up to 1949 he was chairman.

Fry: Well, now didn't your committee do something at Manzanar with the Japanese-American Relocation Camp? When they had the riots?

Burns: No. We went to Tule Lake once. We did a little research at Tule Lake but not on what people said was happening. We didn't find any evidence of what the "hue and cry" was all about.

Fry: Was your report then one that sort of "pooh-poohed" the reports that had said that there were a lot of young Japanese-Americans there who were disloyal?

Burns: No, we never issued a report like that. We found very little bitterness on the part of the inmates at Tule Lake. The inmates went in there and did the job for themselves. People on the outside made crazy assertions like, "They hunt and fish and there's no supervision," and <u>all</u> those things. We didn't find that at all.

Fry: So you thought the administration of it was really okay, or more-or-less okay?

Burns: Yes. We didn't find anything to <u>quarrel</u> about.

[Pause. Fry reviewing information]

Burns: The activity of the committee, under my jurisdiction, slowed up somewhat. Overall studies that we made, where I didn't have the help, the time and the inclination to pursue it, were a shadow of what Tenney did. We kept abreast of the activities of the Communist party pretty good, and any other organization suspected of being subversive. We went to the German Bund Organization, and the Japanese language schools during the early parts of the war. The pro-Nazi groups--oh, they had a lot of names: Cooperheads was one, Deutsches Haus [german house] was another.

Fry: So that's all in your reports. What would be important, then, to talk about is your method and how you got your information.

Burns: Well, a lot of people confuse us with the congressional committee, the Dies House Committee on Un-American Activities. We hardly used any of them. We finally got to a point where we refused to

Burns: summon any members of the Communist party or fellow-travelers because you never got anything out of them anyway. They finally got onto taking the Fifth Amendment or something. So we'd have voluntary testimony, but sworn to, of course, and things like that. Subpoena unwilling witnesses, I didn't care for that. They all got in the newspaper coverage and that was a hassle to us.

Fry: As I remember the House Un-American Activities Committee in Washington subpoenaed people. Did you subpoena people here?

Burns: Occasionally some person wanted to be subpoenaed so we'd issue a subpoena for him. But at the onset of the committee, yes, quite a number of people were subpoenaed.

Fry: Early?

Burns: Yes.

Fry: This was war-time then.

Burns: Yes. Early in the activities committee there were subpoenas, but during my time, as I say, it slowed up. We didn't want those kinds of hearings.

Fry: So your operations were really different from the ones that went on in the Tenney years?

Burns: Yes, I had a different personnel on the committee and I had a different viewpoint. I don't detract from Tenney's enthusiasm. He worked hard at it. But I had other fish to fry.

Fry: Now you had [Richard E.] Combs as one investigator. Did you have very many others?

Burns: Well, we had Combs as an attorney. He was an attorney from the inception of the committee in 1941.

Fry: Did that mean he was the investigator, or was somebody else?

Burns: Well, he would do part of it and of course we had two, three others that would come and go.

Fry: With some sort of expertise?

Burns: Yes, well <u>supposedly</u> some expertise. Everybody's an expert on something in their own mind.

Fry: What kind of legislation did this lead to in this period?

Burns: Well, we proposed legislation in the early '40s. One I remember distinctly was the outlawing of the Communist party, which was held unconstitutional by the California Supreme Court: you couldn't outlaw a party by name. He had to do it by reference. The court said that any political group, any group that advocates this or the other thing, could be recognized officially. But we never got around to passing legislation of any consequence.

I've forgotten what they are now. But I never proposed any while I was chairman. And under my chairmanship the committee didn't propose legislation. We found that in most cases, legislation wasn't necessary.

Fry: There was a ballot proposition about '62, or somewhere along in there, '64 maybe, to outlaw subversive activities. Remember that?

Burns: No, I don't remember.

Fry: A referendum or an initiative.

Burns: I remember hearing something about it but we didn't sponsor it. It was sponsored by someone else.*

Fry: Okay, so that's outside of yours, then. Did you have anything to do with the loyalty oath? That was when Tenney resigned or went off the committee.

Burns: Yes, we had a lot to do with it. In fact, we proposed it several times, and it was opposed by Governor Warren. And then he turned and called a special session, for a bill to make everybody do it.

Fry: The Levering Act?

Burns: Yes. He called a special session, made everybody take the oath. As you took the office you took an oath not to...[pause] be disloyal to America.

Fry: Let me see. There was one especially for teachers and staff at the university.

Burns: Yes. The court ruled that you couldn't specifiy a category of public servants.

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*Anti-communist initiative on 1962 ballot sponsored by Assemblyman Louis P. Francis, (Rep.-San Mateo).

Fry: And that was what Warren opposed, right?

Burns: Yes, and then he said to the legislators to bring the teachers into the picture. He said, "Everybody is a defense." He had a title for it: defense workers. He wanted everyone to take a loyalty oath, every state employee, regardless of what they were, teachers or public officials, you had to take it. I guess I took it a thousand times.

Fry: Okay, so the main point is that they proposed it several times but nothing happened until Warren put in the Levering Oath?

Burns: Yes.

Fry: Okay, well, it's getting close to--

Burns: Quarter past five.

Fry: Your dinner hour.

Burns: Will you have a cup of coffee?

Fry: Oh thank you very much. I'm going to run and try to have dinner with my kids.

Burns: Now I have a complete set of those reports from my Un-American Activities Committee, but I'll be glad to loan them to you.

[Interview 3: August 16, 1978]##

Rowland: Now, perhaps you could just start off on your remembrances of the debate over Tenney's chairmanship of the committee and your assumption as chairman, if you can recollect that, back in 1949?

Burns: I don't remember when it was, but there was no debate over it; [Jack B.] Tenney was retired from the senate and had to give up the committee, and I was vice-chairman of it, and therefore inherited it, so to speak.*

Rowland: And was there almost unanimous senate support for your chairmanship?

Burns: As far as I can recollect, yes. I had no objections. There was no objection. There was no voting or resolutions creating and regulating that committee.

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*Jack B. Tenney lost a primary election to Mildred Younger in 1954. He resigned from the Senate Un-American Activities Committee in 1949.

Rowland: Now there was a book published on the Tenney committee by a Mr. Edward L. Barrett.

Burns: Yes.

Rowland: And he mentioned that you were going to put a moderating effect on the committee, as a result of what he felt was the extremism of Jack Tenney.

Burns: Well, that was inevitable, because I had so many other things to do. I had to curtail some of my activities, and that was in one phase of it, where I turned most of the work over to the committee members, and I didn't do much, I must confess.

Rowland: Did you personally select Mr. [Richard E.] Combs to be counsel for the committee?

Burns: No. He wanted to get on with his own volition.

Rowland: On his own volition. And did Mr. Combs select other senators to join the committee, or was that your influence?

Burns: Oh, the Rules Committee of the senate selected the membership.

Rowland: Did you know Mr. Combs outside of the Senate Un-American Activities Committee?

Burns: Well, I knew Combs practically ever since I was in the legislature, because he was, I think he was the counsel to the committee on welfare.* Well, the assembly committee that studied subversive activities in the state relief administration.

Rowland: The Sam [Samuel W.] Yorty Committee?

Burns: Yes. Yes. So that's where I knew him, got acquainted with him.

Rowland: Did you know him down in Visalia or Fresno?

Burns: No, I didn't, not prior to the time he became counsel for my committee.

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*Officially termed the Assembly Relief Investigating Committee and created in 1940 and chaired by Assemblyman Samuel Yorty (Democrat-Los Angeles). Combs was chief investigating agent for this committee and wrote its report which was published on May 24, 1940.

Rowland: So you didn't have any outside personal relationship with Mr. Combs outside of the legislature?

Burns: No. I inherited him with the committee.

Rowland: Did you know anything of Combs' background?

Burns: Oh, yes, I knew he was a lawyer in Visalia, and I knew of various friends of his and his activities.

Rowland: Through my research, it has been suggested that Mr. Combs had some activities in the left in the early thirties, and then converted to investigating subversives.

Burns: No, I knew nothing about that. I know Combs was a prominent attorney in Visalia, and he was involved in litigation over water and other things that I had studied, especially since I went into the senate from the assembly in 1943. But other than that, it's all I knew.

Rowland: Did you develop quite a personal relationship with Mr. Combs over the years?

Burns: Oh, yes; it was a close relationship, I would say. Of course, we traveled to the hearings together even when Tenney was chairman.

Rowland: You were on the Tenney committee, then?

Burns: Yes. I was on it ever since it was formed. Both houses.

Opposing Public Committee Hearings

Rowland: Now, the committee in its early years, or I think all through, ever since you became chairman, never held, or hardly ever held a public hearing. Is that true? As opposed to the Tenney committee, in which there were public hearings.

Burns: That's true. We held all our meetings in executive session, mostly, because there was a tendency developed, when I took over the committee, that people engaged in subversive activity were inclined to use the committee as a sounding board for their own ideas, and we never got anything definite out of them. They refused to answer, and they used all excuses they could to avoid any testimony in regards to their activities.

Rowland: Did you feel in the later years of the committee, from let's say, '65 at the time of the university Free Speech Movement report, until the dissolution in 1970, that Mr. Combs was coming under attack in the legislature and outside the legislature?

Burns: I never knew he was attacked in the--inside the legislature. I knew very little about the outside, though some of these publicists wrote pamphlets derogatory to him, but--

Rowland: Do you know what organizations they were? What organizations that personally attacked Mr. Combs?

Burns: No. As I say, I never knew an organized attack against him, except the Communist party itself, you might say, here in California.

Rowland: When the '65 report was published, there was quite a bit of criticism not only from, well, from liberal groups, but also from Dr. Kerr's office as president of UC, and I understand even from Senator Teale. Were there certain controls put on the committee after that? I noticed that there was an editorial assistant, a Rena [M.] Vale, who was hired for the 1967 report.

Burns: Well, all that was before my time. Rena never worked for the committee when I was chairman.

Rowland: No. 1967?

Burns: Yes.

Rowland: When you were still chairman.

Burns: Oh, except that I'd remember it.

Rowland: Oh. So this would probably be Mr. Combs? Did Mr. Combs hire Rena [M.] Vale or--

Burns: She might have been on the payroll as a consultant, or something like that. But that was ten years ago or better, and I can't remember what she finally--

Rowland: All those years have gone by. Now, from my notes it appears that there was quite a bit of tension between yourself and Mr. Combs on the one hand, and Clark Kerr on the other, going as far back as 1952, when he refused to serve as a liaison with your committee. Do you recall that? It was a "contact man" proposal established with the university and your committee in 1952.

Burns: Yes, I recall that. I can tell about my relationship, to a certain extent, but I can't tell about anything else right now. I was unimpressed with his diligence in ferreting out subversive activities on the campus of the University of California. There was no criticism of his predecessor, in my book.

Rowland: President Sproul, Robert Gordon Sproul?

Burns: Yes. Robert Sproul. We wanted to cooperate with the senate and with Dr. Kerr, but Kerr had felt cooperation with us was undesirable and unnecessary. That left it entirely open. He said he could get all his information from the FBI [U.S. Federal Bureau of Investigation], which is not true, because they don't put out any information.

Rowland: That was talked about in the supplement, your committee supplemental report in 1966. Did you begin to look at Clark Kerr as someone who felt he was autonomous from the legislature, who could act independently of the legislature?

Burns: No, I never went that far with him; it's just that our relationship was not cordial, although I will give the guy credit. He intended to be autonomous from the legislature, I think, but he just didn't agree with the philosophy that subversives could bear watching in this country. And he let down the bars, to a certain extent, on his campus, which produced the Free Speech Movement and all that.

Rowland: Now Mr. Combs in the '65 report said that Clark Kerr was a Communist sympathizer because of his relations with Communist-infiltrated organizations during the second World War, and that he felt sympathetic to Communism.

Burns: I wouldn't comment on that, because I don't know. I have my own opinion of Dr. Kerr; that is, myself.

[tape turned off]

Rowland: Yes. Right. Again, so you would not necessarily share the analysis of Mr. Combs, that Clark Kerr was a--

Burns: No. No, because I'm not sure of my ground enough to feel that I would call Dr. Kerr a subversive and that--

Rowland: But you were, nevertheless, critical of his operation of the administration of the university.

Burns: Yes, well, I thought he was a little bit naive in his approach to the problem.

Rowland: And you wanted him to have better cooperation with the committee in checking out subversives?

Burns: Well, we offered to help him; he didn't see fit to take it.

Rowland: It has been suggested that when Kerr made ROTC [Reserve Officers Training Corps] on the campus voluntary and turned the policy around of the fraternities and sororities so that they would be

Rowland: non-discriminatory, some of the opposition from those policy changes went back to your committee and further strained the communications between your committee and Clark Kerr.

Burns: Well, I personally didn't care for his activities, but I wouldn't say it was derogatory to Dr. Kerr or anybody else. I thought that he, as I said before, was too permissive, perhaps. Although I don't mean to say that he threatened the institution. But that was my point of seeing; I never thought Kerr was subversive in any respect. I had the idea that he was too lenient, too permissive, for our concern, because of the activities that came from the university.

Rowland: Did your committee have any wide, private support outside of the legislature, such as American Legion support, or southern California groups, particularly?

Burns: Well, all of the patriotic veterans' associations, like the American Legion, and other veterans' associations, were interested in our work, but how they provided support, I don't know. They never contributed any funds, or anything like that.

Rowland: Was there some aerospace support, such as John [E.] Canaday? Are you familiar with him?

Burns: Yes.

Rowland: That he supported the committee, and also James Corley, the former lobbyist of the university.

Burns: They all approached the matter that we could be helpful. We offered to supply what information we had, and what they did about it was their business. That's all we ever asked them.

Rowland: Was there correspondence between Mr. William Wadman, who was chief of police on the UC campus, and your committee? Mr. Wadman was acting as a liaison with your committee until Kerr became president in 1958. Is that true?

Burns: Well, if it was in the report, it's true, but I can't vouch for it.

Rowland: You can't remember that.

Burns: No.

Rowland: Do you remember any communication with Mr. Wadman?

Burns: I remember Mr. Wadman, of course, but I don't remember any agreement with him, or anything. And the same way with Mr. Corley. I don't remember any support like that-- As I say, I was so busy trying to take proper care of the senate. I think I should have gotten off the committee, but I couldn't find someone that was willing to assume it.

Rowland: How did you select Senator Stephen Teale in 1963 to join your committee.

Burns: Well, Teale was on the appointing power [Senate Rules Committee], and he volunteered, as I remember, and I said, "Fine, if you are willing to go on it, let's go on it." We didn't discuss the issue, say, of the chairmanship, or anything.

Rowland: He wanted to join?

Burns: Yes. I think his political views were a little more liberal than the rest of us, but that's immaterial. I think he wanted to see how we were working more than anything else. And he was willing to go on it, fine.

Rowland: Teale refused to sign the '65 report on the Free Speech Movement. He said he refused to sign because he didn't agree with the way the research was done, the way it was written up. Do you feel also that the research and writing of that report, the '65 report, was inadequate?

Burns: No, I don't think so. I think the report was all right. Teale viewed certain things in a rather meticulous way, you know. The "i's" weren't dotted or the "t's" weren't crossed, or something like that. And I don't know whether he agreed with it or not. I guess he didn't; he wouldn't sign the report. He made some perfunctory remarks to the press about it. But I was used to criticism by that time. I said, "Well, we'll put out the report without him."

Rowland: Did Senator Teale step forward in the senate chambers after the committee's 1965 report was printed, and publicly refuse to sign the report, do you remember?

Burns: Not that I remember. If he had done it on the senate floor, I'd remember it. But I don't remember him refusing to agree on anything, in public.

Rowland: At least privately, privately he refused to sign.

Burns: Well, he might have, but I don't remember that.

To Further Obscurity: From Committee to Subcommittee

Rowland: Now, one thing I discovered in my research is that the committee was a "committee" until 1959 and then it became a subcommittee of the Senate General Research Committee.

Burns: Yes. I can't tell you the reason now; it was—I remember the change, the change in terminology. There was a reason for it, but I can't tell you what it was now. It was immaterial, anyway. It didn't do anything.

[telephone rings]

Rowland: I was following the appropriations in the Journal of the Senate, and all of a sudden—

Burns: It had something to do with that. I think that figured in--the money part of it.

Rowland: Because all of a sudden, after it became a subcommittee, the appropriations now were not listed in the Journal of the Senate, because it was a subcommittee.

Burns: No, I guess it was a lump sum to facilitate the ease of the handling the situation. A lump sum appropriated in the General Research Committee. I remember that move, and it was on the advice of the legislative counsel. He set that up. A lot of committees were subcommittees under the General Research Committee. Then all of them would be saved from one single appropriation to the General Research Committee and they allocated the money.

Rowland: Oh, I see. But there was no political problem with the committee, that it was getting criticism from liberals in the senate, or any other affects with the--

Burns: No. As far as I know, one or two individuals didn't like the method of filing. One member of the senate whose name was in one of the reports attended some meeting. Well, I was off when that criticism arose; I was out of the senate entirely. And I said, "I don't know. The president of the United States is in the files [of the Burns Committee], and I am, and a lot of other respectable people." I don't know why he was getting all excited about it.

Rowland: Who was this that was getting--

Burns: I think it was [James R.] Mills. I'm not sure of that, but I think so.

Rowland: So James Mills, who's now pro tem of the senate was critical of the Un-American Activities Committee?

Burns: Yes. Because the files--the entry was made in the Un-American Activities Committee files before I came into the picture. He attended some meeting, nothing wrong in it.

Rowland: Meeting of the committee?

Burns: No, meeting of this organization. It was taken from some publication, sometime like the People's World, or something. I can't say for sure now what it was.

Rowland: In 1965, when reapportionment came, was there increasing criticism of the committee from senators from city districts, who were perhaps more liberal, who felt the committee no longer served a purpose?

Burns: Some of the '65 people who came in went on the committee.

Rowland: Dolwig, for instance? Senator [Richard J.] Dolwig?

Burns: No, Senator Dolwig was in before that. Jack Schrade, for one. And there was no criticism from that influx at the end, in the reapportionment year of 1966. I noticed no more opposition to it from anyone else.

Rowland: Was there increasing criticism since the '65 report of the committee? Did you notice a problem when Senator Teale refused to sign the committee report and President Kerr issued the critique of the report?

Burns: No, the report was adopted by the senate, and there was no further criticisms that I remember.

Termination of the Burns Committee

Rowland: In 1970, why did the committee finally dissolve?

Burns: Because I left the senate, and what the action was after I left, I never knew. But I understand they continued the committee under a different name, naming Senator [Dennis E.] Carpenter as the chairman. I think it was the Civil Disorder Committee. But it was the same idea carried further.

Rowland: Mr. Combs was not on that committee, then?

Burns: No. He retired when I did.

Rowland: Was Mr. Combs asked to retire by certain senators, or else he would face dismissal?

Burns: I don't know anything about that. I don't remember anything like that.

Rowland: No. He just retired on his own, then?

Burns: Yes. The committee went out of existence and he was out of a job. [laughter]

Rowland: Okay. Simple as that.

Burns: Same way with me. I didn't run for office again, so I was out.

Rowland: Did you personally get any criticism of your running of the committee from either your home town, or the Fresno area, or from outside the legislature, or from senators?

Burns: No, I never did. Tenney got some from the senate membership, but I never got any. The committee in itself was never criticized at home. My constituency was all for it.

Rowland: Were there certain senators who felt that the committee should not be attacking the university's autonomy, and they felt that you were trying to take that autonomy away from the university?

Burns: The University of California?

Rowland: Yes.

Burns: No. I'd say those who were articulate, thought it was a great idea.

Focus on University Autonomy and President Clark Kerr

Rowland: Regarding Kerr's firing by the Board of Regents, one theory holds that your committee actively sought his dismissal as president of the university in 1967.

Burns: Well, I don't know about that. I know he was dismissed from the university, but I don't know the details of it.

Rowland: Then you or Mr. Combs were not--you would say you were not actively seeking his dismissal, but you were just publicizing what you thought was the truth of the matter?

Burns: No, not at all. I don't think so. We criticized him in our reports, but if that added to his dismissal, so be it. I don't really know.

Rowland: So you say just the chain of events, Ronald Reagan picking up from the report and certain other influences on him, triggered the decision to finally dismiss Clark Kerr?

Burns: Yes. Of course, we were very critical of Dr. Kerr and his handling of these things, and maybe that added to it. So was the Board of Regents, as I recall. But I took no part in it and I don't think Combs took any part in it.

Rowland: Did you play an active role on the committee, or did you leave almost the entire responsibility of the committee to Mr. Combs?

Burns: Well, the way these things work, and it's a practical matter--by an "active role" I guess you mean that I took part in the arguments with groups or individuals.

Rowland: Or you played an influence in writing the report.

Burns: Well, I should say I would, because I read very thoroughly and very carefully all the reports and made corrections on them, if you call that taking an active part, yes, because everything that was published was with my approbation.

Rowland: Did you have a good working relationship with Mr. Combs? Did you ever have any disagreements with him?

Burns: Oh, yes, yes. We worked very well together.

Rowland: Was there any time or moment you can remember when you were slightly critical of Mr. Combs and what he was doing, or going a little bit too far in his writing or research?

Burns: I know of no instance where he went too far and know of no instance when I said so to him.

Rowland: Why I asked that question is because it has been suggested that you were totally responsible for the reports. You played the most active role in influencing the writing of the reports. Another theory holds that Mr. Combs was the one who was doing the writing and research.

Burns: Well, he correlated all that stuff, and brought it up to a head, and then the committee itself was active in reviewing it. We held meetings on it, and decided whether or not, what to say in the report. Otherwise, you'd fill up a book this high [gesturing

Burns: with hands] on this kind of stuff. They get carried away with it--the employees get carried away with their criticism and their adulation or whatever it might be.

Rowland: Do you think that Mr. Combs' role, since you became chairman, increased on the committee compared to before, when he was working under Senator Tenney?

Burns: No. If anything, it diminished. And even members of the committee wanted to expand from time to time some of our activities, investigations, and studies. And I, as I say, I had so many things pressing that I put the soft-pedal on everything that entailed any work.

Rowland: What seems to me in reading all of the reports, is that since 1952, when the committee changed and you became chairman, there was more of a focus on the University of California, and possibly infiltration there. Tenney's focus seemed to be more interested in Communist influences in Hollywood through UCLA, Communist influence in the public utilities, and things like that. Would you tend to agree to that analysis that influence since you had become chairman was more towards the university?

Burns: Well, yes; I'll agree to it to a certain extent. The university was a public institution of learning, and everybody in California contributed to its support. It should be, in our estimation at that time, the exemplar of everything that's good. The publicity surrounding the events of the school really increased in its nature at that time, both critical and laudatory; either way you want to look at it. The activities increased, whatever they were. And the school itself, of course, increased in enrollment. I was always sympathetic to the university programs; I had friends on the Board of Regents; I was willing to expand the activities of the institution. I introduced the bill to make Fresno State and Santa Barbara State a branch of the university. I got some objections from home, so I took Fresno out. So Santa Barbara went on; today they're a branch of the university. There were some short-sighted people on the faculty of Fresno State, and they thought their authority would be curtailed, I guess.

Rowland: Did you personally want to see the autonomy of the university lessened? In other words, so the legislature would have more power over the university, like with the state college system and the community college system?

Burns: Yes, I thought in certain places it could be increased. Some of the fiscal matters could be looked at by the legislature. I would say that the university at that time increased their political activities, as such, and they warranted a little more--

Rowland: The students were increasing their political activity?

Burns: Yes.

Rowland: And this was, perhaps, directly attributable to Clark Kerr's presidency and the fact that he was lenient or permissive in the system?

Burns: Yes, I think Clark Kerr—of course, he was the president of the university; he had to bear the brunt of all this stuff. And our criticism was directed, either right or wrongly, to the way he handled it. And he bore the blame for everything, whether right or wrong.

Rowland: You were a delegate from California at the 1940 Democratic convention?

Burns: One of them. We were allocated at that time thirty delegates, at most thirty. Then, in '44 they went back again, nominated Roosevelt for the fourth time. But at that time, we threw out the vice president and nominated [Harry S.] Truman.

Rowland: So you were a Truman supporter and a--Roosevelt--man.

Burns: Roosevelt and Truman both.

Rowland: Were you ever, at one point, critical of the New Deal?

Burns: No.

Rowland: You supported it?

Burns: No, not during my time of office. I refused to support senator--the candidate--for instance, the last time. George McGovern I thought was a little bit nuts.

Rowland: Were you saying that you wanted to see more legislative control over the University of California, such as would exist with the state college system?

Burns: I never adopted that officially at all. I didn't think I would justify it ever. I think the university was plenty able to govern themselves, which they already have done.

They wanted what you call a line budget. I brought the budget to the Board of Regents on a lump sum basis without line items. I think it's all right, and I think it's worked good over the years. But I never advocated legislative control.

Rowland: Except when it would be the issue of subversives on campus. You wanted some legislative control there.

Burns: But that opposition was now down to the official level at the time. It was up to the president and the Board of Regents of the university to run the university, and run it satisfactorily to the taxpayers of this state.

Rowland: Were you critical of Clark Kerr due to his coming from a labor background and the fact that he might be a little more sympathetic to subversives or Communists?

Burns: I don't know; was he from a labor background?

Rowland: Yes. He was a labor arbitrator for many years.

Burns: I didn't remember that. I can't say, but during his term of office, there was student activities that I certainly didn't approve of. Free speech is one: the taking over, demonstrating, and all of those things; now those could be curtailed, toward, to a greater extent than the officials of the university did.

Rowland: So you would say then that Clark Kerr, as president of the university, is directly responsible for what occurs on his campuses.

Burns: Well, yes. In fact, he was the guy at the head of the university as president, bore the responsibility, as I'd said before, of keeping order. He is the law on the university. The riots and demonstrations were not justified and shouldn't be permitted. I was critical of Clark for that reason.

Rowland: You think, perhaps, he was too liberal in trying to understand what the subversives were saying, and a failure to take action and bring order to the university was directly attributable to this?

Burns: Well, yes, to a certain extent, of course. We tried to get him to understand our [Burns committee] viewpoint, that prevention was worth a pound of cure in these kind of things.

Rowland: There was a meeting in January of 1962 that Mr. Combs talks about in your committee's supplental report of 1966, in which Kerr was present, and Mr. Combs was speaking on the subject of the committee's attacks on Kerr. Do you remember that meeting at all?

Burns: No, I don't remember it.

Rowland: In San Francisco? The Bohemian Club?

Burns: No.

Rowland: Well, it's kind of getting a little bit too specific, but--

Burns: No, I couldn't comment on it, because I don't remember it. I don't remember anything like that.

Rowland: Anything else you'd like to state about the committee, or about your involvement in the committee, or what you feel the committee failed to do and wanted to do, or was unfairly attacked, or what it achieved--

Burns: Well, the committee was attacked by radicals in several different instances, various stories of one thing or another. But in the main, the committee was supported by the rank and file of the people in this state. Otherwise, we wouldn't have been in existence. We felt as though we did our job, and did it properly, even though insufficiently, maybe. But on the whole, in a part time organization like that, which it really was, it could not run efficiently! Most of its volunteer work and the membership had other things to think about, other things to study, in addition to all that committee work. Tenney, when he was chairman, devoted about ninety percent of his time to it, but I couldn't do that. There were other members who couldn't do that.

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Rowland: You were out of the senate in 1970; is that correct? You retired then?

Burns: Yes, I was out of the senate; '71 was my last year.

Rowland: And you were on the Rules Committee up till '71.

Burns: Yes.

Rowland: And then James Mills took over as pro tem?

Burns: No, there were two--

Rowland: Oh, [Howard] Way, wasn't it?

Burns: Way took over, and then Schrade took over. They were both in about a year, and then Mills was elected.

Rowland: Why was there that series of turnovers? The rapid turnovers: why did that occur?

Burns: Well, you can attribute it to anything you want to, except that they were both elected by a coalition of Democrats and Republicans and we had such an influx of new members, that they seemed restless

Burns: and wanted different leadership. Then when, after an election, Mills was elected and they had a Democratic majority in there, they elected Mills, who was a Democrat, which was all right, of course, with us.

Rowland: Turning to your Un-American Activities Committee, you said earlier that the committee enjoyed rank and file public support within California, can you see that support mostly coming from certain geographical areas in the state, or certain economic groups, or was it across all areas in California?

Burns: I don't know. I do know that most of the opposition groups were from Los Angeles and the southern end of the state because that's where the population centers were, toward that way.

Rowland: And from the Bay Area, too? Through the Bay Area, San Francisco, and Oakland?

Burns: Yes. But you didn't have so many radicals from the north as we had in the south.

Rowland: Until now, where it's almost opposite. Right?

Burns: Somehow, it sort of did.

Rowland: That's very interesting.

Burns: Now, Oakland and San Francisco have joined the team. [laughter]

Rowland: Yes. I have a note here that Richard Nixon had communications with your committee, while Nixon was on the House Un-American Activities Committee; this was in the Jack Tenney era when Nixon was a representative from California.

Burns: Well, the only connection I remember was that when Tenney was chairman, he had a joint meeting of some kind, down in Los Angeles. Nixon was invited to attend. But I didn't attend that meeting; and I don't know what went on. I had a conflict. I had to be in, I think it was Long Beach. I'm not sure, but I didn't attend the meeting to speak of. But that's the only thing I ever heard of as far as a relationship with President Nixon.

Rowland: But there was no further communication, particularly in 1962, when Richard Nixon ran for governor and was defeated?

Burns: No. We extended ourselves quite a bit not to take a part in any political activity as a committee. None of us would take part in any election.

Rowland: Mr. Combs or yourself.

Burns: Any of us. Neither Combs, me, or any member of the committee would say anything derogatory about a candidate or anything like that.

Rowland: What I still don't understand is, if you could kind of recreate, how often did the committee meet? Was it a regular meeting committee or did it meet once a year?

Burns: No, they only sat--oh, they met about three or four times a year, but at different times.

Rowland: For instance, for the '65 report on the Free Speech Movement, how often did you meet then? This is with yourself, Senator Teale, Senator Aaron Quick, and Mr. Combs as counsel.

Burns: Which one?

Rowland: The 1965 report on the Free Speech Movement, in which Dr. Kerr was critical of the committee and the report. You were chairman, Senator Teale was a member, Senator Aaron Quick from the Imperial Valley area, was a member, and Mr. Combs.

Burns: What was the report devoted to mostly?

Rowland: The Free Speech Movement at Berkeley.

Burns: Oh.

Rowland: And that's the report in which Mr. Combs attacked Clark Kerr for being totally--

Burns: We probably met about two or three times that year, when the reports of investigations came in.

Rowland: One more question: were there any other members of the committee who were not listed in the report: investigators, secretaries, et cetera?

Burns: Well, secretaries was probably listed, and some of the investigators may have been. I don't know for sure, now. I can't remember that. There weren't any committee members that weren't let off. They were all listed. But some of the people submitting their own investigations were not necessarily in the report. Some we didn't touch. But other than that, most all of the important names were included, which we deemed important.

Rowland: Do you remember some of the appropriations, the amount of money the committee was given, for, let's say, the '65 report and afterwards?

Burns: No, no, I don't. They can give you that list in the Journal of the Senate, I guess. I don't know where it would be. I think probably the records might show in [John C.] Williamson's office [executive officer of Senate Rules Committee]. I'm not positive about that, either.

Rowland: I talked to him this morning, yes, after the Rules Committee ended.

Burns: I think he would be able to have it or get it for you.

Rowland: Okay.

Burns: We covered quite a long space of time, and we never had any trouble getting our appropriation approved.

Rowland: Right up till 1970?

Burns: Yes. As long as the committee existed they appropriated the money for it.

Rowland: Okay. Well, I guess that's it, and I'll let you go have your dinner. Thank you very much.

[Interview 4: September 26, 1978]##

Rowland: Again, you said that you were going to contribute your papers to the Fresno Historical Society?

Burns: Yes.

Rowland: And you've already made arrangements to do that?

Burns: Yes; I've already sent word. They wrote me a letter and asked me. I dropped in to see them the last time I was down in Fresno. I told them I'd send them the stuff, because--might be pretty soon, because I'm thinking of moving.

Rowland: Oh, you're thinking of moving? To where?

Burns: Whatever opens. That house is too big for me.

Rowland: Yes, it's a big house.

Burns: Yes, and it costs quite a bit to keep it up: all the taxes alone--taxes and insurance are about two hundred and ten dollars a month. So, I think probably I might rent an apartment sometime.

Rowland: Okay. Do you recall Mary Ellen Leary?

Burns: Yes, very well.

Rowland: Do you remember when you persuaded Mr. Combs to allow an interview with her? That was 1966. Do you remember the reasons for that?

Burns: Yes, yes. Well, she wanted to interview him, and I couldn't see any reason why she shouldn't. She wanted it. There had been a story on the committee, I think, in the Sunday supplement of some paper.

Rowland: Was it due to a press reaction to the '65 Burns committee report on Clark Kerr? Do you recall that?

Burns: The press reaction?

Rowland: She interviewed you, too, did she not?

Burns: The press reaction was so diversified: some for it and against it; their attitudes were so diverse. But I didn't pay much attention to her.

Rowland: It's been suggested that you persuaded Mr. Combs finally to allow the interview. Is that true?

Burns: Well, I'm afraid so. I can't remember the occasion, but I suppose it's true, because we had nothing to hide. Let her have the interview.

Rowland: In your view, what was the purpose of the California Senate Un-American Activities Committee?

Burns: The general purpose of the legislative committee is to evaluate a subject and report to the public and the house. We were a senate organization and it was our duty to report these things to the house, whatever we found in our study.

Rowland: But no legislation was passed by the committee?

Burns: Well, we had our legislative program.

Rowland: That is, since you became chairman.

Burns: Yes. But the legislative program didn't get very far in several incidents. But it's not our job to pass legislation, or even to see that legislation is passed. It's our duty to find out where to title information, that's all.

Rowland: I have a reference to a proposal by Regent Edwin Pauley, to introduce what was called the "San Diego File" in 1962 at a regents' meeting. The "San Diego File" was a collection of index cards containing names of alleged subversives. It was started by a retired Army colonel in San Diego. My research suggests that Regent Pauley, you, and Mr. Combs had introduced the "San Diego File" to the regents. Do you recall that at all?

Burns: Yes, I remembered the few communications between the people interested in them and us. I don't know what ever became of them. There was a naval officer: ex-retired naval officer, I think in that role. I can't remember his name.

Rowland: In the San Diego File group of sponsors.

Burns: Yes.

Rowland: So, did you persuade Regent Pauley to introduce the San Diego proposal at the regents' meeting?

Burns: No. I didn't discuss it with him, that I remember.

Rowland: Did Mr. Combs have access to the San Diego File? Do you recall this?

Burns: Well, I think he did, through the courtesy of that naval officer who was in charge of it at the time, who has since died, I think.

A Liaison Plan with Higher Education

Rowland: Going back to the original liaison plan: do you recall that in 1951?

Burns: Yes.

Rowland: Was that your idea, or what is Senator [Nelson S.] Dilworth's, or Mr. Combs'?

Burns: It was a general idea of the committee, that we thought we'd be of some service to the universities. And we said that if the people close to higher education wanted information that we had, we'd furnish it to them; information on any of their personnel, including the faculty, and so on. We were very glad to work with them. It was a cooperative thing, there was nothing mandatory about it; we made no recommendations to them. It was to furnish some information if they wanted it. And they could act on it if they saw fit.

Rowland: Do you remember if Senator Dilworth especially was interested in this? Could he propose the idea? Do you recall?

Burns: No, I can't recall that.

Rowland: But he supported it wholeheartedly?

Burns: The individual members of the committee, their activities as an individual, I'm not familiar with.

Rowland: Did you have several meetings with Dr. Kerr, in San Francisco at the Bohemian Club, trying to persuade him to take some action on the subversives on the campus.

Burns: No, I can't remember urging him to take any action at all. The only thing I urged him to do was to take our reports and consider them.

Rowland: Did you find Dr. Kerr defensive of his administration and of his own policies?

Burns: Well, he wasn't in accord with any of our recommendations to him that we made of setting up a limited kind of liaison. He didn't want to do anything for us.

Rowland: That was back in 1952.

Burns: I don't know when it was.

Rowland: Later on, as late as the Free Speech Movement in 1965, did you have meetings with him, then, after that?

Burns: Well, we had several informants working at the university and we'd get these reports. We just wanted to pass them on to him, for his observation.

Rowland: It's been suggested that Ed Pauley got an advance copy of the '65 report. Do you recall that?

Burns: No.

Rowland: Here is a copy of the '65 report. [gives copy of report to Burns]

Burns: If it's in the copy of the reports that I have, it's correct, but if it's not in there I don't know anything about it.

Rowland: Were you and your committee instrumental in getting Kerr dismissed as president. Would you want to make a comment on that in any way?

Burns: Well, I think that Dr. Kerr wasn't exactly frank with us in anything we discussed. He had his own ideas and pursued them, but I have no comment on anything that he did or he didn't do.

Rowland: But you felt you were representing the rank and file Californian in trying to correct the problems on the university?

Burns: I'm sure I felt the information that we could furnish him would do him some good in formulating his policies.

Rowland: Do you believe Senator Teale joined the committee to destroy it, as witnessed by his refusal to sign the '65 report?

Burns: Well, I'm not sure of what his motives were; he didn't exactly agree with all the members, what should or should not be said in the reports, I know that. But Dr. Teale and I always worked very well together, and I have no criticism in that for him.

Rowland: Do you have any personal papers dealing with the committee?

Burns: No, when I left Sacramento all my personal papers were destroyed. I didn't move them. But certain of them that I was particularly concerned about—

Rowland: Such as water or the highway act?

Burns: Well, not even that. That was past and gone. Personal pieces of correspondence, I've kept some of it, and various things affected me personal: bank accounts and stuff like that. But I've kept nothing on the committee.

Rowland: Are you aware that the committee's documents have been classified, sealed, and placed in the state archives?

Burns: No. I didn't know anything about that.

Rowland: You were not aware that they are unavailable to the public?

Burns: Are they available?

Rowland: No. They are not available to the public. Do you feel they should be?

Burns: No. I don't have any opinion on this. But I think they--I think it would be a good idea to make them available if they hadn't anything of any importance.

Rowland: Such as, I'm trying to do a correct re-creation of the committee, and I can't do it because the documents of the committee have been classified.

Burns: Well, they have done that since I was a member of the senate, and what they do with them is their business, none of mine.

Rowland: Now, these are questions going back to your early years, to the late thirties and early forties, and we'll see if you recall any of these. Do you recall Senator Tenney's resolution of 1937 endorsing FDR's court packing attempt? In the Journal of the Senate you had endorsed that resolution.

Burns: I don't know. Maybe.

Rowland: This was in 1937, when FDR was trying to rearrange the supreme court.

Burns: Oh. That was my first year up here in Sacramento. Yes. I don't remember any particular statements.

Rowland: Were you a strong FDR and New Deal supporter in those years?

Burns: Yes.

Rowland: Did you regret in any way supporting certain programs of the New Deal, such as the Federal Theatre Project, or the WPA [Works Progress Administration]?

Burns: Well, I supported most of those things, but I generally approved of FDR's programs. What they were now, I've forgotten.

Rowland: Did you at first support the state relief program? Of Governor Culbert [L.] Olson in 1939?

Burns: Oh, yes. I tried to give him help, but I couldn't. Nobody could help him. He just went his own way and that's all there was to it.

Rowland: Help in setting up a program?

Burns: In setting up a legislative program. He was "building a record," so he said. I told him personally to his face that building a record is like alimony on a cold night, it doesn't do much good.

Rowland: Do you recall Assemblyman Gordon Garland from Tulare County?

Burns: Very well. I certainly remember him.

Rowland: He's living in Oakland now?

Burns: No. He is still living in Dinuba, I think it is.

Rowland: Where's that?

Burns: Dinuba is down off of Tulare County.

Rowland: Do you remember if Assemblyman Garland was the leader of the anti-Olson group in attacking the state relief program as being perpetrated by subversives?

Burns: Oh, yes, he was the leader of the so-called "economy bloc" at that time.

Rowland: "Economy bloc."

Burns: Yes.

Rowland: What was the "economy bloc"?

Burns: Well, it was a group of assemblymen that were fighting Olson's budget, principally on the money appropriated to the state relief administration. They voted down his budget. I wasn't a part of that movement.

Rowland: You weren't a part of that movement.

Burns: No.

Rowland: You supported Governor Olson.

Burns: Yes.

Rowland: Now, did Assemblyman Garland--was he the one who first brought up the alarm over subversives in the state relief program?

Burns: Yes, when he was speaker of the assembly. He brought it up and appointed a committee to investigate the activities of subversives in the State Relief Administration. That report was reprinted. I have a copy of it, but I don't know who else has a copy of it. Then they changed the title of it, and made it a permanent committee, so to speak, on, generally, subversives in all state activities, not only the relief administration.

Rowland: Were you on that original state relief committee?

Burns: I wasn't on the one for the relief administration.

Rowland: Did you support that committee's evaluation?

Burns: Oh, yes.

Rowland: What was your first initial reaction to subversives in the State Relief Administration?

Burns: Oh, I thought that any organization which was investigating subversives in the relief administration was worthy. And they should be looked into.

Rowland: Was Mr. Combs' Assemblyman Garland's personal lawyer in those years?

Burns: Well, I don't know. I knew they were friendly, and I know that Combs had helped him in his campaign, in 1936, in running for the assembly. I don't know if he was his personal lawyer or not, but he could have been, all right.

Rowland: And Mr. Combs' was selected by the committee on Assemblyman Garland's request?

Burns: I don't know about his request, but I know that--

Rowland: Or recommendation.

Burns: Yes, I imagine so.

Rowland: And then he became a permanent counsel member of the California Joint Legislative Un-American Activities Committee in 1941.

Burns: That's right.

Rowland: Are you aware of Mr. Combs' early subversive investigations under General Van Dieman in the 1930s?

Burns: Oh, I could look it up in their first report. This original committee may, but I don't know now. I've forgotten.

Rowland: You don't recall that. Okay. Did you support the [U.S.] House Un-American Activities Committee, called the "Dies Committee" when it first came into existence?

Burns: Yes. I thought they were doing a pretty good piece of work.

Rowland: Even when they were investigating subversives in the New Deal projects?

Burns: Yes.

Rowland: Did you feel that some New Deal projects were too liberal or ultra-liberal, and radicals were getting into them?

Burns: Yes. Olson was appointing people to various offices of which he was authorized to do. They were, in my estimation, very suspect.

Rowland: And the legislature should have control over who is selected.

Burns: Yes.

Rowland: And that was the original purpose of the California Joint Legislative Fact-Finding Committee on Un-American Activities?

Burns: That's right.

Rowland: And also, you feel that the New Deal and emergency war programs in World War II allowed Communists to enter federal and state government?

Burns: Yes. We were all concerned about that. And I was concerned about it, too.

Rowland: Now this is going back to the 1959-62 years, when the Senate General Research Committee was created, and the Un-American Activities Committee became a subcommittee, of the General Research Committee--finances were the primary reason for this re-structuring of the Un-American Activities Committee. But was there a secondary reason: to shield Mr. Combs from any legislative inquiry, perhaps?

Burns: Well, I don't know. I can't remember anything about that.

Rowland: Senator George Miller, Jr. from Martinez was a good friend of yours, was he not?

Burns: Yes.

Rowland: And did George Miller, Jr. represent the liberal wing of the Democratic party in those years?

Burns: Well, he was to that extent a part of a faction that was so-called "liberal." I never called it liberal; I say it was "left." But it's all in terminology; it's a battle in semantics I never took part in.

Rowland: Now, there's a theory on why when you became chairman of the Un-American Activities Committee, public hearings were no longer held. It goes back to George Miller, Jr.'s re-election campaign in Martinez, during the Tenney years. Tenney tried to hold a hearing in Martinez, claiming that George Miller, Jr. attended a Communist party meeting. And Tenney tried to make a lot of hoopla over this to defeat George Miller, Jr. Do you recall that?

Burns: Yes, very well. I never attended those meetings. My mother was very seriously ill in Fresno, and facing surgery. During the time this was going on, she passed away, and I was busy with family affairs.

Rowland: But did you feel very strongly that Tenney was going outside the bonds of ethical politics.

Burns: Well, I felt as though it was wrong for us to try to do anything that might influence an election.

Rowland: It was for that reason he said you no longer wanted to hold public hearings: they could be used by politicians to ruin other politicians.

Burns: Well, it entered into it in a small degree, yes. I didn't want to furnish a sounding board to any political activity of any kind, in the support of various candidates. That was my idea.

Rowland: Now, was George Miller, Jr. critical of your committee in any way?

Burns: Not since I had it. He was critical of it when Tenney had it.

Rowland: So when you became chairman, he was not critical any longer.

Did you have a good working relationship with Governor Reagan?

Burns: No, at that time the committee--I relegated the committee to the background because when Governor Reagan was in, I was pro tem of the senate. My relation with the governor at that time, and with any governor, except Olson, was devoid of any controversy or criticism on my part.

Rowland: But did Governor Reagan support the committee?

Burns: Well, he never did anything to oppose it. I'll put it that way. He didn't, in my memory.

Rowland: Who were the principal antagonists to the committee in the legislature after reapportionment? George Moscone, for instance?

Burns: I can't remember anything in opposition that anybody had who had been a member of the senate.

Rowland: The assembly?

Burns: No, we didn't go to the assembly with our resolution, and I say, I put it on my back burner on account of I had so many things to do.

Rowland: That brings up another point I should have asked earlier. I think I asked you this in the first interview. After the '65 report, it appears that the committee had gone through several changes. Rena Vale was hired as editorial assistant and an

Rowland: inspector was hired: Charles Brydon. Were these a reaction to the criticism of the press and the general public to the committee's '65 report?

Burns: No.

Rowland: So, when you say you put it on the back burner, did someone else come in, such as Senator [H.L.] Richardson, who organized the committee while you were taking care of your other duties?

Burns: Do you know whether or not Richardson was ever appointed on the committee? I don't think Richardson ever was appointed on the committee?

Rowland: Yes; I think he's here in '67--yes.

Burns: I don't remember him being ever active in it. Oh yes, you're right. He was a member. We met in several conferences on various subjects with Bill Richardson on the committee, but--I don't remember anything.

Rowland: Well, he was active, he took a full part of it; as a committee member I think as far as I can see. He was, should I say, enthusiastic about his work. [laughter]

V FURTHER VIEWS ON LEGISLATIVE ISSUES

More on Reapportionment

Rowland: Did you have any reservations about reapportionment and what it might do to the senate?

Burns: Oh, yes. I had a lot of reservations about it. I opposed it all the way along. There had been efforts quite a while ago about submitting an initiative, I think, abolishing the senate. And I opposed the--oh. It was a file amendment on the Democratic state party platform, a state platform, where they wanted the reapportionment program as it is now, adopted. It was part of the program. And I opposed the adoption of that in convention. I wanted that part of the platform deleted.

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Burns: Jack [John F.] Shelley opposed me in my [anti-senate reapportionment] amendment that I proposed to the convention. George Miller, Jr. supported me--he was chairman of the platform committee. And I opposed this reapportionment movement because I felt as though these large population centers would take over, which they have, incidentally. [laughter]

I supported [U.S.] Senator [Everett M.] Dirksen back there in Washington, later [1964], in proposing a [U.S.] constitutional amendment that would permit the organization of the state's legislative representation, that one house could be apportioned by a standard other than population. The Dirksen amendment, they called it. And I also toured, incidentally, with George Miller, Jr; we seemed alike at that time. And we toured the whole state's newspapers asking them to support our point of view, and against the supreme court ruling.

Rowland: California Supreme Court, you mean?

Burns: No, the U.S. Supreme Court, that the both houses have to be reapportioned on account of the population, see. This state was too big, too diversified, to have that come in. And the newspapers received us well; there was only one that was an out and out supporter of the idea, and that was the Los Angeles Herald. They had supported it. And the other organization, I think, was the League of Women Voters. They were supporting the courts' position. But outside of that, every paper in the state opposed it.

California Water Plan Legislation

Rowland: Okay. Now we'll see if we can squeeze in these questions from the oral history collection, at UC Berkeley. These are questions submitted to me by Amelia Fry, who you talked to earlier. What was George Miller, Jr.'s position on the water act?

Burns: George opposed me in my bill on the water, all those--what do you call them? We called them river rats in those days.

Rowland: River rats?

Burns: Yes. They were the representatives along the delta.

Rowland: Right.

Burns: And he opposed it. I couldn't sell him on the idea. And maybe so. He was representing people who were opposed to it, probably right, in his viewpoint, to do what his constituents wanted him to do. Mine didn't have any problem with that.

Rowland: Was there any trading done to bring George Miller, Jr. around in support of the water act?

Burns: Not that I know of. We had--I was a supporter of it because my people wanted it, not because of any other factor. A good bit of my constituency wanted it. Now, I had one farmer in my county, from Coalinga, who had to pay twenty five hundred dollars an acre foot for water. He didn't have any water to use in his kitchen or for drinking purposes. He had water to water his lawn with; and every gallon of water had to be brought into the town by train. This is domestic water. So I had just wanted this. But all down the west side of Fresno they needed this water. Oh, they needed it south of Fresno, too; they needed it in Los Angeles, and so on. So I was for it, basically. And when the governor asked me to handle the bill, I said, "Sure, I'll go with it." I didn't know at that time what the opposition was, but Senator Miller opposed it.

Rowland: Did he eventually support the water act?

Burns: Not that I know of. Opposed it all the way through. And I think that area down there is opposed to having any developments now.

Rowland: The peripheral canal, you mean?

Burns: Yes.

Rowland: Was the oil lobby principally opposed to the water act?

Burns: Oil? No.

Rowland: Was there some question over the hundred and sixty acre limitation?

Burns: Yes. It came up in various ways from time to time. But my people weren't too concerned about the hundred and sixty acre limitation, in any way. And that included big farmers.

Rowland: There were big farmers?

Burns: Included big farmers. But they weren't concerned with that. I think, and this is just an opinion of mine, I think they felt if gravity water was brought in (not withstanding then, the acreage limitation) it would help relieve the pressure on underground supplies. See? And they weren't concerned with it.

Rowland: Was there any division of opinion among oil companies over the hundred and sixty acre limitation, such as independents versus larger oil companies?

Burns: No; I can't remember any opinions coming out of the oil industry at all.

Rowland: Did oil companies such as Exxon and Southern Pacific own large acres of land in the Central Valley region?

Burns: No. I can't remember any difficulties at all.

Rowland: You don't recall anything.

Burns: No.

Rowland: You don't recall that those companies were opposed to small farms?

Burns: No. I don't know what their thinking was, but they didn't actively take any part in it, that I recall.

Rowland: Do you know if there were any individuals who stood up against the hundred and sixty acre limitation, or any individuals who were opposed to the water act other than George Miller, Jr.?

Burns: In the course of passage, that never entered into the controversy, to my knowledge. No, it didn't at all. It's come up since that time.

Rowland: Do you recall a Berge Bulbulian from Fresno County, who was opposed to the water act?

Burns: I remember a--

Rowland: He was from Fresno. Do you recall him at all? Berge Bulbulian? From Fresno?

Burns: No, I really don't.

Rowland: He was for more federal money to enforce the hundred and sixty acre farm limitation?

Burns: No, I don't remember him. The only people that I remember were from the east side of the valley; they didn't argue about the acreage limitation, but they were concerned about the east side. One of them came to me and tried to argue me out of doing it. They tried to convince me of this idea to take care of the east side first.

Rowland: Do you recall the person's name?

Burns: Yes. He was on [Governor] Reagan's Agricultural Commission. John Garabedian. But I told him I couldn't change my plans now. Everything was going. My constituents wanted the plan as it was, and I had too many commitments along that line, commitments to the governor on down. And I couldn't make any changes. What he wanted wasn't clear, but that, in general, was his idea, that the east side should be taken care of, rather than the west side.

Rowland: Was he against the hundred and sixty acre limitation?

Burns: Oh, I can't remember that coming in on my picture at all.

Rowland: He just wanted more water for the east side.

Burns: Yes. He just wanted first consideration to the east side, not to the west.

Rowland: And he was representing the bigger farmers on the east side? The larger farm owners?

Burns: Well, I don't think John had represented anybody.

Rowland: But himself?

Burns: But himself. Yes.

Collier-Burns Highway Act

Rowland: Do you recall the Collier-Burns Highway Act?

Burns: Yes, very well.

Rowland: In 1947. Who were the act's opponents? Who were the people-- opponents to that act?

Burns: The oil companies were, to start with. And we had a meeting with Governor Warren out at his house. And top officials of the oil companies were brought in to the meeting. The governor wanted them to stop in their opposition. They were opposed to the additional gasoline tax. Out of that meeting came their withdrawal in opposition.

Rowland: How were they persuaded?

Burns: Well, I think Governor Warren persuaded them to abandon that opposition.

Rowland: Was there any compromise?

Burns: Not that I know of. The additional tax was necessary at that time to fund the expensive freeway system. And on the floor of the senate the only man who was opposed to the bill was Senator Tenney, who represented Los Angeles County, who received, incidentally, seventeen million dollars off the top for freeway purposes. The only guy who got any benefit immediately out of the highway act was the opposition. But he was the only one who opposed it. We passed it. I had no trouble. Some of the little oil companies, I think, opposed it, but the big ones were convinced to lay off.

Rowland: The smaller companies were--

Burns: Yes. Some of them. I don't know if all were, but--

Rowland: Were continuing against the act, you said?

Burns: Yes. They still opposed it.

Rowland: Who worked with you on formulating that act?

Burns: Well, most of the people were people that knew highway construction. The state needed friendships--Senator Hatfield from Merced County, was very active in support of it. Senator Hulse from Imperial County was active. Incidentally, I'm not the Burns that the Highway Act was named after. It was Assemblyman Burns.

Rowland: Yes. There was another Burns in the senate when you took over, was there not?

Burns: Well, not when I first came there. In the assembly. Mike Burns.

Rowland: Right.

Burns: And then he moved over to the senate after I was in there.

Rowland: Make it even more confusing. I just realize I left out a question when I asked you about George Miller and the water act.

Burns: Yes.

Rowland: Was there a compromise on the Fair Employment Practices Act and the water bill to bring George Miller around?

Burns: No. The water act was passed long before the FEPC deal. There was no compromise on either one of them within my knowledge. I was on the finance committee that considered the bill.

Rowland: The fair employment practices bill?

Burns: Yes. I proposed some amendments to it on what we call the second reading of the bill, second reading file. And one of them was to take out a salary appropriation and make it one hundred dollars a meeting, which wasn't opposed by Miller or anybody else. And also one other thing. The chairman of the committee was at that time [James J.] McBride, and he asked me to defend the committee amendments. And I remember he did it on the floor, and Miller opposed me on them. One of them was that salary area. And it stood out as a separate identity. So I proposed an amendment to put the salary amendments in the Department of Natural Resources which would be responsible for its enforcement. And that went over unopposed. The rest of them were technical as to feeding, and stuff like that, of the Filipino membership, which has been abandoned since on as immaterial, not practical anymore. But outside of that, they were the only controversies we had. If you want to call them that. There were committee amendments; the committee recommended them, and I presented them with what we call, as I said before, second reading of the bill. And after that was done, there was no more controversies, as I remember. And I

Burns: think the amendment on the salary thing was a committee idea. While the associated farmers were active in their opposition, they didn't propose any amendments.

Rowland: The associated farmers were opposed to--this is the water or the fair employment?

Burns: Oh no, not the water, the fair employment thing. The water act, to my knowledge, didn't get into the picture at all.

Rowland: There was no trade off or compromise with George on the two.

Burns: No.

Rowland: To get his vote for the water act?

Burns: I think he'd already voted against it. I think the water act had already passed. I'm not sure of that, but the record will show it for sure.

Rowland: Okay. Did you face any opposition when you ran for the pro tem for the senate in 1957?

Burns: The Republicans had a policy that they would elect Senator [Donald L.] Grunsky. So, if you divide the house on party membership, you found it even-Stephen. Their claim at the time was that the lieutenant governor, at that time Lieutenant Governor Powers who was a Republican, would have the deciding vote. Therefore, it was a Republican house. Well, I pointed out the fact to them that the lieutenant governor wasn't a member of the senate. And Powers concurred with the question. And I said, "I have a couple of Republicans that will go along," which I did.

Rowland: Who were those?

Burns: Well, they turned out to be Senator [Randolph] Collier and Senator [Louis G.] Sutton. I got twenty-two votes. I got two votes more than I needed. Or one vote.

Rowland: Did you already establish a good working relationship with Collier because of your support for the highway act?

Burns: No, I had a good relationship with Collier.

Rowland: Where was Collier from?

Burns: Siskyou County. He was from the cow county. And our relationship was always good. Of course, they were better after I was elected. With Senator Sutton I was helpful in getting him anything he wanted.

Burns: He wanted to be on the finance committee; we put him on that. He wanted to be on the Standing Joint Legislative Budget Committee that employed the legislative analysts, so we put him on that. Both these strong opposition men were--Sutton has died and Collier has retired. We tried to keep Sutton on the veterans board, and held a meeting up there to help him in his forthcoming election. But after he'd achieved all these things that he wanted so bad, the next election he was defeated.

Rowland: That election--what county?

Burns: Colusa.

Changes in Senate Leadership

Rowland: Do you recall the battle over the senate pro tem position when you retired: Howard Way, Jack Schrade, and eventually James [R.] Mills?

Burns: Well, it was one of those things, you know. A lot of guys, well two or three Democrats didn't get what all they wanted. One of the guys from San Fernando since died, who wanted another license plate, special license plate for his wife or somebody.

Rowland: Do you recall his name?

Burns: Yes. Well, I can't think of it at the moment;* he was--well, that's a big help! (engine noise in background)

[Tape off and on. Interview continued in hallway of capitol.]

Burns: He was from San Fernando, Los Angeles County. A former assemblyman. The Rules Committee had already taken a special policy, one driver's license plate to a member. And so I thought it was too trivial to talk about; wouldn't even bring it up in the Rules Committee. He was one who voted against me, one of the recalcitrant Democrats.

Rowland: One of those who supported Howard Way?

---

*Tom Carrell, Democrat from San Fernando, Los Angeles County. Elected to assembly in special election, December 8, 1959. Elected to senate 1966. Owner of automobile agencies and vice-chairman of Senate Transportation Committee. Died 1973.

Burns: Yes. They defeated me and elected Way with one vote.

Rowland: What about Jack Schrade? The California Journal said that Jack Schrade had your endorsement to take the pro tem position away from Howard Way.

Burns: Yes, I voted for him. I don't know whether that was an endorsement or not.

Rowland: The California Journal said your group represented the "old guard" and Harold Way was one of the "young Turks" who was trying to take over.

Burns: Yes, Way was a Republican. And I would call Way an insurgent Republican. He wanted the office; he lobbied the senate for months before that time. Way's action was rather presumptuous to try and do what he did. He worked for two or three months after the session started to get himself elected, and I was ready to quit at the end of that term anyway. So I didn't do any hustling for him. He got one more vote than I did, so it was just one of those things.

Rowland: And you gave your full support to Jack Schrade.

Burns: Yes.

Rowland: Schrade was also on the Un-American Activities Committee, was he not?

Burns: Yes.

Rowland: He was from San Diego?

Burns: Yes.

Rowland: What about James Mills? Were you out of the senate at that time? When James Mills became pro tem?

Burns: Yes.

Rowland: Did you have any questions about James Mills? Did you support him at all when he was in the senate?

Burns: No. After I got out, they had their own way.

Rowland: Now, you ran for—

Burns: The first time I've been in the capital this year.

Rowland: Oh. You ran for California secretary of state in 1970 against Jerry Brown. Is that true?

Burns: Yes. Well, around the primary you could feel Jerry Brown was one of the running candidates.

Rowland: Why did you run against Jerry Brown for secretary of state?

Burns: I didn't run against him. I ran for the office.

[interview continued in elevator]

Rowland: Who urged you to run for secretary of state?

Burns: Well, I'm not going to say, for fear of hurting somebody's feelings. They were, you know, some of my political friends. Some of them opposed me, too, I might add.

[Interview 5: June 20, 1978]## [telephone interview]

Rowland: Let's see--just a brief question here about your background before you entered the assembly in '36. We'll see how good your memory is. I talked to several interviewees who said that your father was a teamster.

Burns: No. My father was a salesman for a long time with National Biscuit Company.

Rowland: Then he wasn't involved with the teamsters union at all.

Burns: No.

Rowland: I have a note here that you became a teamster?

Burns: Well, I joined the teamsters' union in San Francisco because it was a parent of the shipboards' union. I had to belong to that to work in the funeral business.

Rowland: Was that an AFL union?

Burns: It was an AFL union; yes, at that time.

Rowland: This was about late twenties?

Burns: Well, it began about '23 and went to '27-'29.

Rowland: Were you particularly active in the union?

Burns: No.

Rowland: And you joined the union to become an embalmer.

Burns: Yes, I joined the embalmers' union. But that wasn't compulsory; we had a--my boss had a union shop agreement with the teamsters. But that was all.

Rowland: Well, let's see. When I checked your endorsements in 1936, when you ran for the assembly, and I discovered that you had quite a bit of labor backing.

Burns: Yes.

Rowland: Down there: the Fresno Labor Council, and the Tri-County Labor Council from the AFL Council. Were you active in the AFL down in Fresno?

Burns: No, I didn't even belong to any union. No. They just took me on their own.

Rowland: Was the Fresno Labor Council your greatest endorser? In '36?

Burns: I got endorsements from them, yes.

Rowland: Was the Fresno Labor Council in AFL?

Burns: Yes.

Rowland: Do you recall why you particularly chose 1936 to run for the assembly?

Burns: Well, it was an open field, and there was a vacuum there, so I thought I'd consider it. I went ahead with it.

Rowland: Let's see. Now, turning to the State Relief Administration, was the Fresno Labor Council involved with the state relief employees in Fresno?

Burns: Not that I know of.

Rowland: Did the Fresno Labor Council and other AFL unions support you joining the Tenney committee?

Burns: No, it never came up that I remember.

Rowland: Your labor endorsement was part of a wide range of endorsements that you got in 1936?

Burns: Oh, sure, we ran for office; we tried to get every kind of endorsement.

Rowland: Now, I had discovered that you were also a founder of the Democratic Club in Fresno?

Burns: Yes. The Young Democratic Club I was instrumental in starting back in--oh, in the early thirties.

Rowland: Was that connected with labor in any way?

Burns: No.

Rowland: So I guess that the labor connection there was just kind of incidental.

Burns: Yes. Yes, they weren't so influential in those days as they are today. They had permitted local endorsements. Even the locals had endorsements.

Rowland: Well, I've got one more question here. This is the last one; we'll let you go for your lunch. You gave an interview; you probably don't recall, but you gave an interview with a man named Burton Wolfe in 1962. You stated in that interview that you were sucked in--and this is a quote here: "You were sucked into one or two front organizations in the thirties." I assume you mean Communist front organizations. Do you recall which organizations they were?

Burns: No, I don't specifically. But I remember one that was questionable; I don't remember the name of it. It was an organization composed of public ownership of power and all that. But I'm not sure even if it was a Commie front.

Rowland: And you signed your name to the initiative, or went to several meetings?

Burns: Well, I went to several meetings; I never signed up on anything.

Rowland: And this was in the what--do you recall--about mid-thirties, perhaps?

Burns: Yes, it was during FDR's [President Franklin D. Roosevelt] first administration.

Rowland: And so you discovered that that organization was Communist run?

Burns: Well, I had my suspicions after I was in it for a while. All that crap folded up eventually in court.

Rowland: Okay. Well, thank you very much.

Burns: Well, you're more than welcome.

Rowland: And we'll try to get back to you soon, and maybe I'll see you up in Sacramento again. And thank you again for all the time you've given me.

Transcribers: Marilyn White, Peggy Horowitz, Alison Nichols
Final Typist: Keiko Sugimoto

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LUTHER LINCOLN

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University of California
Berkeley, California

Governmental History Documentation Project

Goodwin Knight/Edmund Brown, Sr. Era

Luther H. Lincoln

YOUNG TURK TO SPEAKER OF THE CALIFORNIA ASSEMBLY, 1948-1958

An Interview Conducted by
Sarah Sharp
in 1980

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INTERVIEW HISTORY

Along with Hugh Burns, Joseph Rattigan, and Bruce Sumner, whose interviews also appear in this volume, Luther H. Lincoln also participated in critical political and economic debates that wove the mosaic which became California's recent legislative past. Known as "Abe" to his colleagues, Luther Lincoln was elected assemblyman from California's 15th District in 1948. He rose to speaker of the assembly in 1955, a position he kept through 1958.

Dr. Miriam Stein of the Regional Oral History Office first contacted Mr. Lincoln in 1977. She pursued Mr. Lincoln's guidance in the planning phase of our oral history project covering the administrations of Goodwin J. Knight and Edmund G. Brown, Sr., because of Lincoln's primary positions in the assembly. Topics included in this interview were the highways, tidelands oil, and water controversies, the legislative internship program, as well as a brief mention of his race for the speakership in 1955. Mr. Lincoln also provided Dr. Stein with names of potential interviewees who also had been key legislators. Although this interview was not transcribed, it has been deposited in The Bancroft Library along with a detailed index. The tapes are available as documents supporting the manuscript which follows.

The present interviewer-editor contacted Mr. Lincoln in early February, 1980, in order to tape more extensive recollections of his years in Sacramento. We scheduled meetings for 14 and 28 February, and both sessions were held at the offices of his construction firm in Concord. Mr. Lincoln had gone into the construction business in 1936, remaining in it until his death in June, 1980, even throughout his busy years in the legislature. As artifacts of his two careers, Mr. Lincoln's office was filled with legislative source books and photographs of new townhouses then under construction in San Rafael.

Mr. Lincoln was a tall man with grey hair and glasses. For both sessions he was dressed in a suit and tie. He appeared somewhat nervous, but also seemed to enjoy our conversations. He was a casual and candid interviewee, easy to ask questions of. He thought hard to answer the questions and was disappointed when he could not remember certain facts about his political career. Before our first interview he had penciled out a list of the topics he thought he should cover, besides the list sent to him in advance.

Mr. Lincoln opened these interviews with a discussion of his youth in Montana and California, a boyhood bound together by his Danish Lutheran faith and culture. From his early activity in the Republican party in Oakland, Mr. Lincoln went to the legislature at the age of thirty-four. During the interview sessions, he discussed many of the important issues he confronted as assemblyman or speaker, such as the loyalty oath controversy that raged between

1949 and 1952, the early fate of the California Water Plan later in the 1950s, and the "Big Switch" of 1958. He closed the interview with a candid reflection on his appointment by Governor Goodwin Knight to the State Compensation Insurance Board in 1958.

Mr. Lincoln received the transcript of his two interviews in May, and had only reviewed it briefly before his death on 27 June 1980. Many suggestions had been made on the transcript for additional comments he might make regarding his career. Except for the first ten pages, in which Mr. Lincoln had occasionally added a few words, the interview appears as this interviewer-editor lightly edited it for clarity. The two transcribed interviews together with Dr. Stein's earlier interview briefly document the tenure of a warm, interesting, and influential Republican assemblyman from Oakland. Two short obituaries appear in the appendix.

Dr. Sarah Sharp
Interviewer-Editor

24 September 1980
Regional Oral History Office
486 The Bancroft Library
University of California at Berkeley

Regional Oral History Office
Room 486
The Bancroft Library
University of California
Berkeley, California 94720

Governmental History Documentation Project Interviewee

Your full name Luther Hansen Lincoln "Abe"

Date of birth November 20, 1914

Father's full name Kris Hansen Lincoln

Father's place of birth Davenport, Iowa

Mother's full name Christine Olsen Lincoln

Mother's place of birth Nebraska

Where did you grow up? On a wheat farm near McCabe Montana until age nine (9), moved to Alameda County in 1924. I have resided in Alameda and Contra Costa Counties, California, since.

Education Graduated from Berkeley High School, one year Business Administration Dana College, Blair, Nebraska, various short courses over the years.

Early employment Worked for my father who was a small building contractor.

Established own construction company in 1936.

Positions held in state government Assemblyman, January 1949 - January 1959. Speaker January 1955 - January 1959, member UC Board of Regents January 1955-January 1959. Various other state boards and commissions.

Employment after leaving state government Continued in land development and construction. Co-founder Willits Redwood Products Co., Contra Costa Savings and Loan Association, First National Bank of San Leandro.

I BIOGRAPHICAL BACKGROUND: GROWING UP DANISH LUTHERAN

[Interview 1: February 14, 1980]##

Sharp: Besides getting the basic details of your background, I wanted to ask you a few other questions. You said that you had a Danish Lutheran background and I wondered if that meant that you had a lot of readings in the home or you went to a lot of religious services as a child? How was that expressed?

Lincoln: We went to church very regularly every Sunday morning and every Sunday evening, and maybe a midweek meeting. We also had prayer and Bible reading in our homes each evening. It's a way of life and your friends are in the church. You become a part of the peripheral things like singing in the choir or membership on the board of trustees, and things of that nature.

Sharp: So it was almost like a larger family and you had a lot of special contacts. Did these go through your whole childhood?

Lincoln: Yes, and it was not unusual in the church when you transfer or move that one of the first things you look for is the branch of your same church in a new location. My family would never have located in Oakland in 1924, when they were looking for a place in California, if there hadn't been a branch of this same church in Oakland. We immediately joined it, and then that became a part of our family.

Sharp: Was it Danish Lutheran or just Lutheran?

##This symbol indicates that a tape or a segment of a tape has begun or ended. For a guide to the tapes see page 52.

Lincoln: It was a Danish Lutheran church. In the 1880s and '90s, when the Lutherans and other denominations were coming over from Europe, they were speaking the mother tongue. So there were the Swedish Lutheran, the Norwegian Lutheran, the Danish and the German and on down the line. We were eight or ten different Lutheran churches. At that point, the first few years, the services were in the mother tongue. Then a little later on as the second and third generation came along, why, one Sunday a month would be an English service. Finally it got to where only once a month it would be a Danish service. Then ultimately in, oh, around 1920 to 1930 they pretty well dropped the mother tongue entirely.

Sharp: You must have learned Danish.

Lincoln: Yes, I could only speak Danish when I started school.

Sharp: Was that a handicap then that you had to quickly--

Lincoln: I don't look at it as that. I suppose it might have been, but that was normal for this little farming community in Montana where I was born. They were largely Danish Lutheran. They largely belonged to that one church. There was a Catholic church ten miles away; on dirt roads and in Montana weather, that's like a thousand miles away.

Sharp: It seems like a really wonderful way to start your life, that sense of security and ties to the family.

Lincoln: Yes, I cherish my recollections of that early childhood.

Sharp: I imagine that you would. How did all of this become politics then? How did you first get interested in politics?

Lincoln: My father in this little rural community was the only subscriber to a daily newspaper out of Rochester, Minnesota. It came three days late by train and then would get passed around the community. He was interested in government, although not as a participant. He encouraged an interest in it in the home.

II ENTRANCE INTO CALIFORNIA POLITICS

A New Assemblyman, 1948

Lincoln: As a businessman later in East Oakland, I was running a little construction business and a little lumber company. I was active in the Chamber of Commerce and things like that, and got involved in the Republican party as a worker--a door bell ringer type. When it came time for elections, I would work for two or three candidates. The [Joseph] Knowland family who owned the Oakland Tribune were the political leaders in the community at that time. I got to know them personally.

Every two years when our three assemblymen would come up for election, then at salary of $100 a month, there were not many interested. I had helped get others to run in previous years, and in 1948 the man who was my predecessor, Bernard Sheridan, decided he had to stay home and take care of his law practice. We looked long and hard for someone to run within the Republican party against the very liberal Democrat who had announced. It got down to filing time and nobody else had volunteered to run. I just decided I would try it!

Sharp: Did someone suggest it to you then, Earl Warren or Joseph Knowland?

Lincoln: Yes, I got some encouragement from them and others in the community. I was one of three or four people on the central committee who would take somebody out to lunch and suggest that he ought to be a candidate. They would wind up by saying, "Why not you?" I just let myself get talked into it with some regrets in the beginning, but I never regretted it once it got going.

Sharp: How many years had you been involved in the lower level of the party before you decided to run?

Lincoln: Oh, maybe ten years.

Sharp: So the man that you campaigned against was John H. Bittman according to the 1948 Handbook of the California Legislature.

Lincoln: No, that doesn't ring true. I don't have the right handbook early enough to look it up. As I remember, in 1948 the Democratic candidate was a CIO [Congress of Industrial Organization] union leader who was a locomotive engineer.

Sharp: Since you were active in Oakland and Alameda County, I wondered when you had met Earl Warren, if it had been in this early period that you were working with the Republican party?

Lincoln: Yes, my first recollection of Earl Warren is observing him as an outstanding district attorney of Alameda County and occasionally going to the courtroom to observe his work. I was involved in his campaigns for district attorney, later for attorney general, and later for governor. We were personal friends. We belonged to the same athletic club. It's not there anymore--the Athens Athletic Club. I remember many times when he and his two youngest boys and I and my two oldest boys would wind up in the same swimming pool, and you get pretty well acquainted that way.

There were times when his older daughters babysat our children for us. Over the years we were close friends.

Sharp: On your own campaign in '48 are there any special stories about it that you could give us so that we understood better what the campaigns were like then?

Lincoln: I remember it as being an uphill fight in that the district was a blue-collar working man's district, highly unionized, and a typical beginner's "poor boy" campaign. I think we spent $1,600 in all and I'm not sure but what I contributed about half of it myself. I couldn't find any literature of my first campaign, but I've got a couple of pieces here from what appears to be the 1954 campaign.

Sharp: Oh, I'd love to take a look at those flyers and take them back to the office.

Lincoln: You may take them along certainly. I would like to have them back. From the references in there you can figure out what years they are.

Sharp: Okay, that's fine. [noticing family pictures in one flyer] Four children--oh, what a nice family. Did you have more children after this?

Lincoln: No, that's the extent of it.

Sharp: Three boys and a girl. Okay, I will return these. Once you got through the campaign then, what was it like to be a real junior assemblyman?

Lincoln: It was not very comfortable to be a junior assemblyman. The group in control was led by the speaker and the majority floor leader. Sam [L.] Collins was the speaker and Randal [F.] Dickey of Alameda was the floor leader. They had close ties with various lobbyists, particularly Arthur H. Samish, the liquor lobbyist.

There was tremendous pressure on freshmen to become a part of their operation to a point where you couldn't be assigned a secretary or an office or get support for your bills unless you were a part of a team.

Sharp: Did you have a special image of Earl Warren as governor since you had known him before?

Lincoln: I'm not sure what you're reaching for there, but the image that I think of him is one of not being an ardent politician or an ardent Republican, but rather one of being sympathetic pretty much to the general needs of all the people and with more concern for the underprivileged than most political leaders of that period.

Sharp: I guess I wondered if once you got into the assembly and essentially got into politics (which was Warren's business, too), your image of him changed.

Lincoln: No, I don't believe his image changed. I had a very high regard for him. I have always been disturbed that so many fine people have criticized him, for example, as chief justice [of the U.S. Supreme Court]. Certain of his decisions were certainly controversial, but in my heart I feel he did what he thought was best. As I look back over the years, I find in my book he was a real statesman.

Sharp: You had some pretty senior assemblymen ahead of you from Alameda County, Randal Dickey whom you've already mentioned, and Tom [Thomas W.] Caldecott. What was your relationship then with them once you came in?

Lincoln: As individuals we were friends, but I took my advice from Tom Caldecott and Marvin Sherwin.

Sharp: Was he from Alameda County too?

Lincoln: Yes, he represented the Piedmont area.

Sharp: Was it a matter of their schooling you in what was expected of you on the assembly floor, what kinds of bills you would automatically want to work on, or not want to work on? How did that work?

Lincoln: To a degree. The schooling is more procedural, internal, and housekeeping. How you vote is based on two things: your immediate knowledge of a given bill which you may know a lot about from your committee work, and the fact that there's even more that you don't know very much about, in that there were three or four thousand bills a session.

You soon learn to follow the lead of a senior person whom you trust. For example, Tom Caldecott was chairman of the Judiciary Committee. I had a lot of confidence in him. Not being a lawyer and not being particularly qualified in that area, I would instinctively follow his lead.

Enrolled as a Young Turk

Sharp: You've been included in what's called the young Turks' group, which was, as I understand it, a kind of reform group in the legislature. Some of the other people that were put in this group with you were Jim [James W.] Silliman, Bud [John L.E.] Collier, Randolph Collier, and Gus [Augustus F.] Hawkins. I wondered if you thought of yourself as a young Turk and what that term was supposed to mean in the postwar period.

Lincoln: First, two of those names were senior men to me and were not part of what I think of as the young Turks.

Sharp: Who were they?

Lincoln: Randolph Collier and Gus Hawkins. I would say that in the beginning, the young Turks were led by Tom Caldecott and Jim Silliman. We tried to make it our business to see that the lobbyists' control was reduced to some degree. We had the ultimate goal of hopefully unseating them, by gaining a majority, and in 1953 Jim Silliman was elected speaker of the assembly to take Sam Collins's place. That was the beginning of the young Turks in effect running the assembly for the next several years.

Sharp: So it was an attempt to get certain bills passed, certain anti-lobbying bills or what?

Lincoln: To a minor degree, but it was more a case of replacing what we thought of as old, worn-out, prejudiced chairmen, and majorities of the respective committees being prejudiced in the same direction as the chairmen. When Silliman was elected speaker, I don't think there was any of the twenty-odd chairmen reappointed. There might have been two or three.

Sharp: The speaker then has the responsibility to appoint the chairmen as he so desires on the committees?

Lincoln: Yes. Under California's legislative rules, the Senate Rules Committee of five members appoints chairmen and the membership of committees, and then assigns the bills to those committees. Under the assembly rules, the speaker alone appoints chairmen, appoints the composition of the committees, refers the bill over the desk to whatever committee he feels it should go to.

In many instances there are two or three choices. For valid reasons you could refer a bill to two or three different committees. If the speaker is in favor of a bill, he'll see that it gets referred to a committee that he thinks will support the bill. If he opposes the bill, he'll send it to a different committee where he thinks the majority will be opposed.

Sharp: Not only does that sound like a tremendously powerful position, but it seems like it would be a very complicated job, especially if the speaker has three or four thousand bills that he is supposed to keep his eye on, and make some judgment about. Did you perceive the job of speaker as one to look forward to when you first came in, or did it seem a pretty fearful task?

Lincoln: Oh, I think in the beginning it seemed fearful, however I looked forward to the challenge. But circumstances just happen to come along in politics where if you're standing on the right corner when the bus goes by, things melt together. All of a sudden they work. In my case, I worked awfully hard for a year to get the assignment [as speaker], and I looked forward to it, and I enjoyed it. It was a sixteen-hour-a-day job at least six days a week.

Sharp: I have lots of questions about your campaign for the speaker because as yet we have not been able to interview any other speaker. Now, when you came into the assembly, it was the early post-World War II period. From what I know, there was a rather large surplus in the state coffers. I wondered if that was an immediate issue.

Lincoln: That's true. I don't remember the numbers. They would seem small and insignificant by today's levels. You'll recall we had a long war period and a postwar period when there was a shortage of manpower and a shortage of building materials. A kind of a custodial situation had gone on for, oh, maybe since 1941 to '46.

Lincoln: Taxes were coming in very generously, but no new hospitals or prisons or highways had been built. So there were some very interesting discussions about California's growth, and the fact that we were behind in construction in every field. New campuses to the universities were added through that period and the state junior college system and college system were coming along. In 1955, I was the author of the highway act that at that point was the largest dollar bill ever to go through a state legislature--$1 million a day for ten years. That one bill which I devoted most of a year to, plus [James W.] Silliman's decision to run for lieutenant governor, kind of made me a rather obvious choice for speaker. I had a lot of publicity and attention from that bill.

Sharp: Besides this concern for building and becoming modernized in the sense of getting the state colleges and community college system going, what were the other major concerns of the postwar state legislature do you think? Does anything else really stand out besides this building thrust?

Lincoln: You'll recall the loyalty oath.

Sharp: Yes, that's my next big section.

Lincoln: Do you want to get into that now, or should I try and stay away from that for the moment?

By the time Silliman had been speaker for three or four years, we had a very orderly assembly. We cooperated--the Democrats and the Republicans cooperated. One of the things that we were trying to do, and didn't do, for an extended period of time was to be Republicans and Democrats from before the primary in June until November.

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Lincoln: We had ourselves convinced that there was not a Republican way and a Democratic way to build a highway system or to operate a university or to run hospitals for the mentally retarded or prisons.

Every now and then partisanship would come up, but it would usually be because some young attorney wanted to run for Congress next year, and he wanted some publicity. Usually we were able to quiet him down. Conversely, if his ideas fit into the mold of what we thought the state could afford, why, of course, we supported him. The net effect was that all eighty members of the assembly were pretty much pulling in the same direction.

Lincoln: Today if you have, say, a 30-50 situation in Sacramento, I get the feeling that the thirty Republicans who are in the minority take up the time of about thirty Democrats to box them in and hold them down, while the remaining twenty are working for the taxpayers. I notice, for example, that there are no bills of any consequence that are allowed to have a Republican name as the lead author.

The young Turks had many Democrats that were particularly qualified and talented in certain fields that we appointed chairmen and supported in their fields. They had no hesitancy in supporting a Republican bill because a Republican author might gain something in the way of newspaper publicity, let's say. This was before the days of TV, by the way, keep in mind.

Sharp: Yes, that makes a big difference.

Lincoln: It makes a lot of difference.

The Loyalty Oath Controversy, 1949-1952

Sharp: I wanted now to get into the questions on the loyalty oath.*

As I understand the chronology of the situation, it's the period 1949 through 1952 that seems the most important. After 1941, the California Senate Un-American Activities Committee was very active with Senator Jack [B.] Tenney as the chairman. Through that whole period ('41 through '49) this committee was very active in pursuing what they thought were un-American activities. Then in 1949, the Regents of the University of California wrote a loyalty oath provision for the employees at Cal.

In 1950, Governor Earl Warren called a special legislative session, and I wanted to ask you a lot about it. The purpose of it, among other things, was to consider a loyalty oath for all

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*For more information, the reader should see The California Oath Controversy by David P. Gardner, University of California Press, 1967.

Sharp: state employees, at least that's my understanding. Then on October 3 of 1950, the Levering Act was signed. That was AB 61. Two years later the Levering Act was actually put on the state ballot, in 1952.* I wanted to ask you about that too.

Those are the high points of the chronology that I know about. My first question is a fairly general one and that is how the Levering Act came about.

Lincoln: There was a political climate in the nation after the war in the late forties that had us all concerned about communism. The Communist party was smaller and less effective in hindsight than we thought it was through that period. A lot of our national media people and our national leaders felt the need for loyalty. The Hearst papers in particular made a tremendous issue of this and the attorney for the Hearst papers was a senior regent at the university. I can't recall his name quickly. He proposed that university professors at least, if not all employees, and the leadership on the campuses sign the loyalty oath. My recollection is that Earl Warren and others were against this.

Then there was a point reached where a special session of the legislature was called for certain limited things, one of which was the loyalty oath. This was brought about by the demand of these leaders, particularly the Hearst group. An assemblyman who had arrived in Sacramento in January of '49 when I arrived, by the name of Harold [K.] Levering out of Los Angeles, represented a very conservative, silk-stocking district, and he made this his major interest for the next several years. The issue of whether you should have a loyalty oath at all, how far it should go, and how it should be written was debated and voted on back and forth in the two houses.

My recollection is that Earl Warren vetoed it the first time, but I could be wrong about that. My recollection is that for some reason the university adopted this after a tough fight on the Board of Regents that left a lot of scars for many years before it was adopted by the people. As I recall it, the Levering Act was approved by the legislature, and then ran into some difficulties in the courts. I don't recall the details. Then I think it was a ballot measure and voted by the people about '51 or '52.

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*This was Proposition 5 on the November ballot, 1952.

Lincoln: But it didn't end there. The people who were opposed to it kept insisting that appeal be considered. It was some years later, but it was ultimately appealed in both the university and statewide.

Sharp: Did you see this as a very divisive issue for at least the assembly to deal with, the whole idea of a loyalty oath?

Lincoln: It didn't start that way. I had the feeling that it probably wouldn't do much good, but I couldn't really see that it would do much harm. I recall that I supported it at least in the beginning. I became more and more disenchanted with it in later years, particularly after I got on the Board of Regents and saw what it was doing even then to the management and the administration of the university.*

It was a little bit like this issue of putting all of our Japanese neighbors and citizens in camps. At that time I supported it and, of course, Earl Warren was advocating it and there were very few people against it. But now when we think about it in the late seventies and the early eighties, it just doesn't make very much sense.

Sharp: So the Levering Act or a loyalty oath act for all state employees was not Earl Warren's idea?

Lincoln: No, Earl Warren was against it and Bob [Robert G.] Sproul, the president of the university, was against it.

Sharp: There was some speculation that Earl Warren thought that a loyalty oath act would help his chances for re-election for a third term, which, of course, was coming up in '50. Does that make any sense to you?

Lincoln: I'd have to do some research and I don't even know where I would start.

There came a time when it became everyone's burden--"Are you for it or against it?" Then the wording would keep getting changed, and it would get watered down to where those who were really against it would say, "If you water it down to this point, I want to get it behind me; I'll vote for it." It went through kind of on that basis finally.

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*Mr. Lincoln was a member of the Board of Regents from January 1955 to January 1959.

Sharp: Did you sense that there was a great deal of popular support?

Lincoln: Tremendous public support for it.

Sharp: Would you hear from your constituents, for instance, "Okay, Mr. Lincoln, what do you think about it?"

Lincoln: To a degree I would, yes. However, I was representing a blue-collar district in East Oakland where that kind of thing was not their major consideration.

Sharp: They had more bread and butter issues to be concerned about?

Lincoln: Right. If you were representing, let's say, Piedmont or Altadena and Pasadena, Saratoga, and the silk-stocking districts, why, there it was very important. It was 80 or 90 percent favorable.

Sharp: I want to ask you a little bit later about other very conservative activities that Harold Levering got himself into, especially with labor and the right-to-work issue.

To get back to the loyalty oath, can you tell me about the dissent, the people who were against the bill in the assembly, such as George [D.] Collins [Jr.] and Edward [E.] Elliott?

Lincoln: The two names you just mentioned were probably the most liberal people in the legislature. They were almost loners. There were rumors and suspicions that they were quite pink. It was almost enough to convince some of the rest of us that we should be for a loyalty oath because they were so strongly opposed to it.

Sharp: Their opposition worked more toward the Levering Act's passage than anything else?

Lincoln: Yes, I don't think that they were particularly effective in holding back passage. You're right.

Sharp: What was the general tone of this special session then with regard to the loyalty oath? There was so much activity in the nation as a whole. Did the special session sort of absorb that tone, or did you see yourself doing something new?

Lincoln: I don't like to admit it, but I don't remember the details of that session. My recollection is that there was a twenty- or thirty-day session that involved the loyalty oath and two or three other things. There was a point where we passed a special bill that would allow Earl Warren to be governor for a third time. It might have been in that session, I'm not sure, but it was a bit controversial.

Lincoln: When a special session is called, a strong effort is made by the governor, the lobbyists, and the members of the two houses to hold it down to just two or three or four precise items because you could spend the next six months there. Usually, a small handful (from two to ten items) get on the agenda and that's all there is. You get through it in two or three weeks.

Sharp: Did people go and talk to Earl Warren to get his support for the Levering Act?

Lincoln: Oh, he was under tremendous pressure by a lot of monied interests, a lot of the big lobbyists, the Republican party itself, most of the big newspapers, to support Levering.

Sharp: Was there some sense that if he hadn't supported it he wouldn't have been re-elected?

Lincoln: I don't recall that specifically, but in the context of the times I would say that it would have been very difficult for him to be re-elected on the Republican ticket without some support.

Sharp: Did you know about other loyalty oaths that were passed locally, like in Long Beach, Burbank, and Burlingame, for instance?

Lincoln: Vaguely; we didn't consider that to be significant. We felt like really that it was a national issue. That's where it really belonged and if not there then at least a state issue and that you shouldn't be on a local options basis.

Sharp: Did you know of any attempt to pass a loyalty oath in Alameda County?

Lincoln: I don't recall any, no.

Sharp: Had Earl Warren supported the regents to begin with?

Lincoln: I don't believe so.

Sharp: The records are really fuzzy about whether he did or what he thought about it.

Lincoln: There were, I presume, maybe six or eight roll calls over a three-, four-, or five-year period. There may have been points where a moderated version gained his support or on a compromised basis he might have supported something. But broadly and generally, he was opposed.

Sharp: Do you know why?

Lincoln: He was a moderate Republican philosophically and he was very close to Bob Sproul, very close to the university, and there were certain professors at Cal that were really jumping up and down against it.

Personally I got the impression that the 90 percent we didn't hear from either didn't care or said, "Well, it really won't make any difference," or were against it. But those who were for it got tremendous press. I remember following the San Francisco Examiner. Almost daily there would be another story and another wrinkle and they built their circulation up beautifully on that issue.

Sharp: I want to back you up a bit and now talk about Jack Tenney and his committee's work. In 1949, Edward Gibbons of this committee wrote a report alleging that some one hundred California legislators were pink. I don't know if you remember that at all, but it created quite a furor, at least in some of the press. I wondered how this was received in the assembly. Did it seem ridiculous?

Lincoln: Tenney was not regarded too highly in the assembly. He had been an assemblyman. He moved to the senate. He took over this small interim committee that had one attorney who lived in Fresno as his staff man and who was undoubtedly the name you just mentioned, although I don't recall. Tenney got a great delight and a lot of publicity out of holding one-day meetings around the state and bringing people in to testify about what the Communist party was doing around the country or around the state and how we had to be alert to them. It was almost on the order of a Ku Klux Klan operation.

I don't recall the charge that you mentioned against legislators. I don't doubt that it was made. By himself, Tenney couldn't sway the legislature very much. I know that to a lot of us the last two years that he had the committee, the question was, "How do you take it away from him?" Or, "How do you dilute it down?" Or, "How do you minimize his appropriation?" Finally the committee just died. I've forgotten the details.

Sharp: Tenney actually resigned. It seemed that his allegation that a hundred legislators were Communists was a last straw.

Lincoln: Yes, you may well be right.

Sharp: Did he seem crazy?

Lincoln: No, he was an intelligent man, an attorney by profession, the author of [the song] "Mexicali Rose"; that's what we remember him most for. He was kind of a one-issue legislator, a little bit like Levering, and he was looked at more as a gadfly than a serious threat.

Sharp: Some people felt that the regents' oath that was passed in '49 was done to head off legislative action by the state, that you were already considering that.

Lincoln: That sounds very logical. I wouldn't be surprised but what that's true. The regents probably decided, "If we're going to get one anyway, we'd rather write it, and fashion it so that it's workable, and doesn't go too far."

Sharp: Would that have been the idea of Harold Levering as well, do you think, or were there other strong supporters of a loyalty oath for many state employees as well as Cal?

Lincoln: Levering and I arrived together, as I mentioned before, in January of '49, and if I'm not mistaking, that oath by the regents had already been passed when we arrived. I don't recall hearing Levering's name related to this until after he got into the legislature.

Sharp: In [June] 1951 you and Mr. Levering sponsored a bill to investigate Communist activities on the UC campus, but the bill was never passed. I wonder if you remember that?

Lincoln: I don't remember that specific bill, but there were a lot of approaches taken. If Levering and I alone sponsored a bill, it would surprise me a little bit.

When any conscientious legislator has a real interest in something and when the community and state seem to be interested in it, the normal thing to do is set up a fund and an interim committee, and give the chief sponsor the chairmanship of this interim committee to go around the state and hold hearings.

From his point of view, he's trying to create additional support for his bill and additional publicity. From your point of view, even if you disagree with him, you say, "Well, I could be wrong and I want to learn more about it," or you say, "This gives the people in my area who are opposed to this idea a chance to get up and speak too."

So you buy two years' time and let a controversial item like this be ventilated and you hope that, come two years down the track, a consensus will be reached--either that it should pass or it should be modified, or it dies its own death.

Sharp: Then the last item is the fact that the Levering Act was put on the ballot in 1952.

Lincoln: I vaguely remember that some kind of a compromise was reached to the effect that this problem just simply wouldn't go away. We kept talking about it. It was in our newspapers. We had personal views; we had divisiveness on the Board of Regents. Once and for all, the people should speak.

So even if you were opposed to an issue or you were lukewarm to the issue, it was not a bit unusual to find that both proponent and opponent would say, "My position is unchanged, but I don't think that the people of the state have to take my word for it. They have a right to face this issue and see if it has that broad interest." This issue was very hot and it just wouldn't stop.

Sharp: The way you talk about the people of the state is very interesting to me, and I wonder why you talk about them that way. Was it part of the climate of the times that made you and your co-assemblymen think like that, or is it a different philosophy?

Lincoln: Yes, I think it was a situation that had existed for a long period of time. We were citizen legislators. We drew relatively small pay. We were in session a relatively small period of the time. We didn't make it a lifetime career, and people should be heard through this citizen legislator. On certain real broad issues, they should have the right to vote.

Sharp: This was before the professional legislator era came in with new salary increases and things like that?

Lincoln: Yes. When I was elected [1948] the salary was $100 a month. But there was a ballot issue on that same November ballot that increased the salary to $300 a month, and we got $15 a day per diem for hotel and meals in addition to that when we were away from home. Later it went to $500 a month and that was the salary when I left there ten years later.

Comments on Highways Legislation and Lobbying

Sharp: There was another important bill in 1951 that I wanted to ask you about and then we'll move on to your period with Goodwin Knight. The important bill for highways legislation in 1951 looks like it was AB 1237, which provided for a whole state system of highways plus the financing which included a levying of taxes for the state highway system. It took six months for this bill to pass. It was long-deliberated. Do you remember this particular bill?

Lincoln: Yes, to a degree. I was a freshman assemblyman and Senator [Randolph] Collier from Yreka was the author of the bill. I recall that Earl Warren and most of the people in the young Turks group felt that the bill gave truckers more benefits than they were entitled to and the general tax increase was not enough to build the highway program that was delineated in the bill.

I got really involved then in January of '51. I recall a lunch at the Senator Club in Sacramento where I was the guest of Earl Warren. Three or four other legislators were present, including Tom Caldecott. They were discussing the fact that this bill was not fair to the north and the south, that it really didn't raise enough money to do the job, and that the railroads and the truckers pretty much dictated the content of it. The issue was, "How do we get a little more tax on the one hand, and how do we get it fairly across the boards?"

By the time the lunch was over, the issue was that we thought Collier was so deeply committed to the route he was on that there was no way that we could convince him. It would have to be an assembly bill rather than a senate bill. They got around to who was going to really dig into it. Collier had dominated that field and was already then being called the grandfather of the highway system, but there was no assemblyman who would really make a career out of getting sharpened up to manifest variations of issues involved in the highway bill.

Because I was junior [assemblyman] and because I didn't have a heavy load, this little group of four or five decided that I ought to put that whole session into becoming a highway expert. Somewhat reluctantly I agreed. I was looking for something to get my teeth into. Over a long period of time, the whole length of that session, after amendments, changes, and negotiations with all of these various groups, finally on the next to the last day of the session, the bill was voted and signed by Earl Warren. For reasons I mentioned earlier, that kind of made me a momentary hero there.

Sharp: So for the period '51, when this first bill got going, through '55, there was continual discussion about highways. There were a lot of pork barrel aspects, I would imagine, to any highways bill. So, this was a continual discussion that went on for three or four years at least?

Lincoln: Yes. Some of these issues were on the fringes.

For example, you would find four or five different trucking associations that would have four or five different opinions as to how they should be taxed. For example, a United Parcel delivery

Lincoln: type of operation that delivers locally with small vans would want to be sure they don't get tangled up with the big truck and trailer rigs that run cross-country.

The railroads have a vested interest. On the one hand they own some trucks, but mainly they were not going to let trucks get a freeway system that they could use cheaply in competition with the railroads.

Then the League of California Cities were in there with both feet to be sure that freeways didn't come up to the edge of towns and then stop and start at the other edge of town. I heard big debates, never ending, about whether you should go through a town or around a town, for instance. That isn't resolved to this day.

I remember two very minor things that I tried real hard to get into the bill. I wanted a half of one percent--just .002 of the money--to buy a little extra width. As long as you were going fifty miles to the next county seat, mostly through open area and land was cheap, I thought we should buy a little extra width for a curbside lunching spot or rest stop. Maybe fifty miles even, and lay out the possibility of a little local airport. Even if you never built it, you would have the land. Then in the cities you would have a place for a BART kind of an installation someday. That issue, plus the issue of landscaping--a quarter of 1 percent for landscaping a freeway once you build one of these big interchanges--I thought were both important.

Well, the cement lobby and the contractors' lobby just would not hold still for one extra penny for anything except a ribbon of cement. I finally had to go without that and I had the satisfaction ten years or fifteen years later of seeing that those ideas were good and now they are finally coming around to them.

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Lincoln: No, that's one item that I had in the back of my head here. I don't want to indicate that the lobbyists offend me or that lobbyists are not important or that they are dishonest. We were eighty assemblymen and forty senators--a total of 120--and about 350 lobbyists. I would say that at least 98 percent of those people were serving a useful purpose and helped us legislators understand their particular point of view.

Less than 2 percent of them had more power than they ought to have. In the particular time frame we are talking about, the early fifties, it seems like it was the liquor lobbies that were the strongest. In the earlier days it was the railroads. Today I would say it was the schoolteachers' lobby and the state employees'. They are not any of them dishonest, but it is too much if it gets to a point where the lobbyists for a given group know the two

Lincoln: chairmen of the two committees so well personally that they go out together on Saturday nights, go to the ball game on Sunday, golf on Monday together, and support each others' issues. The lobbyist supports the legislator for re-election to too great an extent and the legislator, totally honest, over a period of time gets to where,"My friend Joe, who represents so and so, just can't be wrong; he has been all his life in this and he has got me convinced to lean this way."

That kind of thing, particularly with respect to the liquor group, really hurt the California legislature. Mr. [Arthur] Samish made the statement that "as far as alcoholic beverages are concerned, I'm the governor of the state." He surely proved that to me the first three or four years I was there.

Sharp: We have some of your reflections on the other tape about Mr. Samish and I want to be sure to preserve them because they are very revealing.*

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*See interview history, p. i, for note on this initial interview with Dr. Miriam Stein.

III SPEAKER OF THE ASSEMBLY, 1955-1958

A Prelude: The Transition With a New Governor, 1953

Sharp: I want to ask you now about the transition between Earl Warren and Goodwin Knight as governors. Can you tell me about the days just following Earl Warren's appointment to the U.S. Supreme Court?

Lincoln: I clearly recall the day he was appointed and all of us expecting it to happen for a limited period of time. We presumed that it was inevitable. Of course, Goodwin Knight was living every day for that day. Goodwin Knight didn't know the chief justice [of the U.S. Supreme Court] was going to die, but he knew Earl Warren had been promised almost anything he wanted.* I think Earl Warren had as much as promised Goodwin Knight that if he would sit still and be a good lieutenant governor some more, he would depart before his term was up so that Goodwin Knight could run as an incumbent.

Goodwin Knight was a different personality than Earl Warren. He was a little bit more to the right--not very much. He was more of an accomplished politician type; he was more an extrovert. He could get more out of the legislators through his personal warmth than Earl Warren could and he could make a better political speech. In my judgment, while he tried always in his publicity to prove that he was different than Earl Warren and that he had his own opinions that were to the right of Earl Warren's, I don't recall any major changes being made shortly after Goodwin Knight took over. There were some internal staff changes in his own office, of course, but

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*This was Frederick M. Vinson.

Lincoln: I don't remember any special bills suddenly coming out of the governor's office. I don't remember any department heads being let go. I think the changeover had a minimal shock around the state to all of us, whether we were in Sacramento or out on the street. It was just something that we all knew was going to happen.

Sharp: Did Goodwin Knight change very much when he assumed the governorship?

Lincoln: I don't think he did. I think he was politician enough to lean with the wind to some degree. I think he was friendlier to labor those first few years than Earl Warren had been, or than Goodwin Knight had publicly indicated. Some of us were a little bit surprised that he would lean as far as he did toward labor, but, of course, it was maybe only 10 percent as far as a Democratic governor would have gone, and it probably in my view was no more than labor was entitled to and probably less.

Sharp: Labor had a very good time when Goodwin Knight was governor. They revolutionized most the benefits system that they got, whether it was workmen's compensation or unemployment. Some of our interviews have indicated that Goodwin Knight thought it was politically expedient to help labor along as much as he could because it represented a significant number of votes. Does that seem likely to you?

Lincoln: I suppose there was a degree of expediency, but offsetting that is the fact that this was a period when labor brass was growing up, when unions were becoming strong in California and the leadership was acquiring a new quality of intelligence and understanding. I was amazed at how clean-cut and how well-educated were the representatives of labor when they appeared before our committees.

Sharp: People like C.J. Haggerty?

Lincoln: Yes, Haggerty was the number-one guy and he represented the overall AF of L [American Federation of Labor] statewide. Then every increment of labor--the plumbers, the carpenters, the ditchdiggers, the oil fitters, whatever--had their own representatives there. Until that time, a labor leader was the guy who worked on valves five years ago and had never been to college and really didn't understand the legislative process. But all of a sudden these labor leaders could wear a white shirt and a necktie and look just as professional and talk in the same way as the lobbyists for the United Grocers or the Chamber of Commerce or somebody else.

Sharp: Two other people whom you might have worked with are Tom [Thomas] Pitts and Harry Finks.

Lincoln: Yes, I remember them both.

Sharp: Were they very visible in terms of the legislature where labor is concerned?

Lincoln: They were assistants to Haggerty, fairly visible, but only nominally effective.

Sharp: Mr. Haggerty was considered to be the most effective speaker for labor?

Lincoln: Yes, he was the real leader for labor. He later served as a regent of the university by the appointment of Earl Warren and reappointment, I think, by Goodwin Knight. He did a great job.

Sharp: How does Goodwin Knight's policy on talking about bills differ from Earl Warren? Now, Goodwin Knight is considered to have a pretty open door as far as talking to legislators about possible bills. Was that a carry over from Governor Warren, or was that something new?

Lincoln: Governor Warren had an open door to this young Turks group, but he didn't want anything to do with the group that was running things, what he thought of as being too strong.

By the time Goodwin Knight arrived on the scene, in the assembly we had thrown that group out and had the young Turks in charge. The senate didn't change too much, but they saw what was happening over on our side, and Artie Samish got into legal trouble and disappeared from the scene. So they moderated.

The net result was that in the last couple of years that Earl Warren was there he worked a little closer with everyone, but prior to that he hadn't. On the other hand, Goodwin Knight was an open-door type. He would do his best to talk to every legislator that wanted to see him. That isn't true today and it wasn't true under [Ronald] Reagan. You get shifted off to staff people.

Frequent Meetings With Goodwin Knight

Sharp: There was even some feeling expressed that Goodwin Knight would come and knock on your door, and other legislators' doors.

Lincoln: Yes, he came to my office several times. During the period that I was speaker [of the assembly], every Thursday noon the two of us ate lunch together and it was understood that he would be in Sacramento

Lincoln: from Monday afternoon until Thursday afternoon and that he would campaign in southern California, Fresno, and wherever else over the long weekend. We just agreed that instead of trying to make out appointments with each other, we would set up every Thursday noon. He would bring his legislative advisor and his administrative assistant, and I would bring whomever I felt ought to go.

First, I would try to see that everybody got a chance to eat lunch with the governor, and secondly, I would try to bring along the author of a key issue that was coming up the next week to lay out our reasoning for supporting it, or our reasons for not supporting it. We would be hopeful that the governor would see the issue the same way as we did. So on the average, there would be seven or eight or nine maybe at this lunch every week. We had a very fine working relationship that was just the opposite of what Governor Edmund [G.] Brown, Sr. had with the man who's now the state treasurer and who succeeded me as speaker, a heavyset man from southern California--Jesse Unruh.

Sharp: Did you have a feeling that Governor Knight did his homework in the sense of preparing to come and talk to you, or was it more a sense of your filling him in on things you felt he needed to know? How did the exchange occur?

Lincoln: Oh, I think it was a combination of those things. Governor Knight was very well-informed. He had a good education. I think he graduated as a Mormon from the university--

Sharp: Stanford.

Lincoln: Oh, was it Stanford? He grew up in Utah and started out as a Mormon. That's right. He went to Stanford. He was a superior court judge [in Los Angeles] for many years. He was an avid politician and would go to Republican county meetings, district meetings, and off-season meetings for fifty or one hundred or two hundred people. He didn't just show when you could produce ten thousand in an auditorium. He had a small but competent staff. Paul Mason was his number-one man.*

Sharp: Did Paul Mason have a lot of contact with you?

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*Paul Mason was Governor Knight's legislative secretary.

Lincoln: Yes, I worked closely with him. I would say that he was a little bit like Ronald Reagan. He was a quick learner and he could remember well and he could recite well. It didn't take too much schooling to get him tuned in, and to understand the bills and the political implications of the bills, and to make a decision.

Sharp: So might you have talked to Mr. Mason before lunch on Thursday that week and laid out the territory?

Lincoln: Yes. When the legislature was in session, Mr. Mason would be in one house or the other almost all of the time as an observer, interested in who was doing what and what the issues were.

Maybe by Wednesday afternoon he and I would have a five-minute comparison of notes and decide who ought to come tomorrow, what the most important issue was to go to the governor's office tomorrow, and what I thought the most important issue was for the assembly tomorrow. We would agree on who should be there. For example, if it involved the highways, he'd have the director of the division of highways with the governor that day.

Sharp: Where did you eat lunch?

Lincoln: Well, we ate generally in the public restaurants within a block of the capitol. The one that was used the most was called Bedell's. It's no longer there. It was just a half a block north of the capitol. But these private meetings could only occur in one place it seemed like and that was the Sutter Club. That is a little bit like the clubs you have in San Francisco, men's luncheon clubs, and a small gym and a swimming club. In addition to a main dining room, they have a series of small committee rooms which are used by Chamber of Commerce type people, and the Boy Scouts, and anybody that's going to have a staff meeting in their corporation or something like that.

The Actual Speakership Battle, 1955

Sharp: Now I have some questions on the speaker's battle. Why did you decide to try to become speaker of the assembly?

Lincoln: Well, I guess I was ambitious and there was every indication that the incumbent, Jim Silliman, was going to run for lieutenant governor and that there was going to be a new speaker. There is a normal turnover of about fifteen men and women out of eighty. So the incumbent holdover of sixty-five would be selecting one of their

Lincoln: own and the freshmen coming in would jump aboard whoever was in the lead kind of thing. So it takes half of eighty votes plus one to become speaker--forty-one. I determined that I would run and I would be glad to tell you anything you would like to know about it. I had fifty-one promises pledged in blood as we call it. Upon election day I voted for myself and got forty-one votes.

Sharp: I knew it was very tight. You got just exactly what you needed in votes and certainly no more. How did you begin the race, or do you even call it a race?

Lincoln: I guess it's a race all right. It's a subject of conversation every time a newspaperman, a lobbyist, a political observer, a state employee, an assemblyman, or a senator eats lunch or stops along the way.

Over the months it first became apparent that [Jim] Silliman was getting serious about running for lieutenant governor. It became apparent that two or three other senior people including Tom Caldecott did not want it [the speakership]. His story to me was largely that he had an active law practice and that to be a speaker was a full-time job and that he just couldn't afford the luxury of it. I think that was true. Of course, almost every attorney in Sacramento hopes one day to be a judge and I think this was in Caldecott's mind too. Two or three others showed some interest. But what happened was that the Silliman committee chairman, this young Turks group, and the maybe twenty-five [assembly] chairmen (most of whom were going to come back) more or less concluded that I was probably the guy they would most want to be speaker.

It takes a combination of things [including] personal friendship. I had had enough time there in six years to get more than just casually acquainted with almost every one of the incumbents. That meant sticking around there at nights in off seasons, having a few drinks at the bar, going out to dinner together, or attending committee meetings around that state. So I had a fairly good personal relationship with the people and then I was what I thought of as a moderate Republican. I was a strong supporter of Tommy [Thomas] Kuchel and Earl Warren and Goodwin Knight, and I think of those three people as the leaders of my kind of Republican party through that period. That meant that I was not offensive to a Democrat as strong as, for example, a Harold Levering would be. Harold's strong right-wing position would never let him be speaker.

So once there was a vacancy and once I had gotten encouragement from the [assembly] committee chairmanship, that meant maybe fifteen or twenty votes; the question was how to get the others. Off season,

Lincoln: I made personal trips to southern California almost every week. Some of them would assure me that they would support me and did. A few assured me they would support me and didn't, and others were kind of riding the fence. About then, later than I started, [H. Allen] Smith started out as my opponent. He had previously said he really didn't want it. He was also practicing law and had his eye on Congress. But a handful of these particularly effective lobbyists that our young Turks had given a bit of a violin lesson to decided that they didn't like my looks, and that somebody had to run against me. They convinced Mr. Smith that he should, and he did.

Some of the lobbyists were very helpful to me in getting people to support me. Some of the lobbyists were very helpful to him to get him support. They peeled off about eight or nine votes that I thought I had for sure. Come that first Tuesday after the first Monday in January at high noon, when you vote, they just weren't there.

Sharp: Was your opposition a combination of lobbyists and other assemblymen?

Lincoln: I think it was a combination of the two, but you can't very well talk about lobbyists in the newspapers. Smith's strongest argument was, "Most of the people are in southern California and the incumbent speaker, Silliman, is from northern California and it's our turn. We ought to have one from southern California." That made good logic and it looked good in the local newspaper. The man from Los Angeles said, "I'm switching from Lincoln to Smith because I want to support southern California. We have our kind of problems." The man would get brownie points in his home district.

Now, I worked the other side of the road. You work a lot of minor things just to get one vote. For example, once Los Angeles got going strong and Smith was identified, I went down to San Diego. I met with the county chairman of the Republican party and a couple of the leading businessmen, the editor of the newspaper. I said, "Do you really think San Diego can get more out of a Los Angeles-controlled delegation, because they already control the legislature." Thirty-five out of the eighty were out of Los Angeles County at that time. (I think it's more than that now.) "Or, do you think that areas like Fresno, Sacramento, the Bay Area, the San Diego area, and Bakersfield area can get more if we band together? Los Angeles is strong enough to take care of itself." Well, that made pretty good sense that we minorities ought to stick together in effect. I guess if there's one reason why I won, it was the fact that Los Angeles was already heavy-handed and top-heavy in the assembly.

Sharp: It was a pretty close race then.

Lincoln: Yes, it was.

Sharp: I wonder what went on in your mind when you won, but won that closely.

Lincoln: I don't think anything special. I knew that I wasn't going to get fifty-one votes. I did hope to get forty-five or forty-six. In fact, I remember having a tally card in front of me and my name, Lincoln, was about half-way down. If I had a certain number I was going to pass and get elected by forty-four or forty-five. [laughter] When they got down to my name I could see I had lost a couple already and I had over half-way to go. I was forced to vote for myself, which didn't seem right to me at the time, but as I look back now I could say it's done all the time.

So what went through my mind? Well, I don't recall being very surprised. I don't recall being disappointed. I was proud and I considered it a tremendous challenge, and kind of a proof that the American system made sense, if you look at it this way. I remember telling my kids, "Your dad is a Montana farm boy. He has had one year in college. He has done a little business. He lives in an ordinary neighborhood and today he was elected to the seat that the newspapers said was the second strongest political seat in the state."

I still think it is the second most political seat in the state and it has been quoted [as so] in the local newspapers in the last few months now with this infight going on in Sacramento.

So I arranged my business affairs so that I could put more time up there. I rented a one-bedroom apartment close by and I arranged for my wife to spend two days a week up there mid-week and to get a full-time housekeeper to take care of those four kids. She could come up Wednesday morning, stay through Wednesday evening, and then go back home Thursday afternoon.

Sharp: That sounds like a complicated schedule.

Lincoln: It was a tough life. When she didn't do that, I was flying out of Oakland airport into the Sacramento airport. I would get up at five and go to my construction office at six, and put in an hour or two. Then I would get on an eight o'clock plane, get up to Sacramento at nine, and turn around and do the same in the evening. It was a tough, tough rat race, but so challenging and so interesting. I met so many people and got involved in issues that an ordinary little guy would never even know existed.

Sharp: Did you fear the opposition then that was obviously there? Did you think maybe you couldn't get the bills through that you wanted to?

Lincoln: No, I don't think so, because in the end we were still operating on that theory that, okay, we have a Democratic or a Republican fight or we have a speaker's fight. It didn't get as rough as this one has that has been in the papers in the last month or two. [H. Allen] Smith and I shook hands and I appointed him chairman of a committee. A few of the diehards from Los Angeles were a little bit curt with me for a while. But by and large, we went right on down the road working. I don't recall that we lost any particular time or any particular bills.

Sharp: How did you finance your race for the speakership?

Lincoln: It took more time than money. You didn't print anything and you didn't buy any TV time. The construction business that I was in then was building a subdivision in Stockton, one in Monterey, and one in Roseville. We had a little company plane that would fly me down to see a guy after dinner in Fresno or something like that. I would commute to Los Angeles on the regular planes and those were relatively cheap. The only thing I remember [that] was expensive was that I put in a second telephone line to my house to be able to keep up with all of these fellows. My phone bill was running $500 or $600 a month instead of $20! That had my wife a little upset. [laughter]

Sharp: So after the 1954 election, the Republicans kept control of the assembly. Goodwin Knight had been elected governor as an incumbent and so you had a majority of your own party in there. The Democrats apparently had failed to really agree on who they were going to support for the speakership.

Lincoln: They were just about equally divided between Smith and myself largely along north-south lines with some notable exceptions. There was no way that all of the Democrats could have elected a speaker and it was just logical that about half of them would fall on each side.

Sharp: Was there any one reason that you thought you won?

Lincoln: One of the reasons was that I had been more active as an assemblyman than Smith had. Smith would spend more time in Los Angeles and less time in Sacramento than I would. When he was there he had two or three friends that he lived with and went out to dinner with and he didn't play the whole field. He hadn't laid the foundation for being speaker. I honestly don't think he wanted that. I think he was squeezed into it. Two years later he ran for Congress and stayed there until about four years ago when he retired. I think he had had his eye on that.

Lincoln: I knew I could never go to Congress. I had a little business and I had a growing family. So whatever political career I had, I knew it had to be close to home.

Being Speaker: Insights into the Role

Sharp: How did your relationship with your fellow assemblymen change after you became speaker?

Lincoln: I don't think it changed at all, except I got a little more attention. They all liked to have their picture taken with the speaker or say, "I had lunch with the speaker today." I got more invitations to their district to come down and tell them, "What a great job Joe is doing in Sacramento!" In that regard, I saw more of them.

I owed them my time and my support. If they had a pet bill coming up a week from Tuesday and it was in trouble, why, they would tell me about it. If I could say, "The bill is no good. You have to change it or amend it or do this," or, "I can't support it either," sometimes I would. Conversely, I would say, "It's a pretty good bill. I don't see anything wrong with it. If your district wants it, you want it, who is really giving you trouble?"

Well, he would say, "This newspaper and that assemblyman or that senator." I would say, "I'll have a talk with them and see what really bothers them." Sometimes I would find that it was a personal thing.

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Lincoln: About right after the roll call, there was no business. Once a speaker is elected, you automatically adjourn. So by one o'clock it was all over. I remember that I met with these [assembly committee] chairmen. They had their own ideas. Well, for example, we discussed how was the best way to handle [H. Allen] Smith. We had three or four committee chairmanships open--the guys had gone on to Congress or something--should he [Smith] have one of them?

Other chairmen would say, "Look, I'm losing two men on my committee who retired and I've got a friend from down south. I'm chairman of Fish and Game [Committee], he's a great fisherman, and he would sure like to serve. Can I have him on my committee?" Things of that nature were discussed.

But largely I got into a backroom hotel with the two staff people of [James W.] Silliman and we started going down the list and listing these chairmanships and the vice-chairmanships and the membership of

Lincoln: the committee (some committees had seven, some nine, and some of them would take as many as twenty-one). We would try to divide them up so that there were Smith supporters on each of these twenty-four or twenty-five committees and there were southern Californians in balance with northern California, and there were Democrats in balance with Republicans and always proportionately. If the Democrats had 30 percent of the membership, we would try to give them 30 percent of the chairmanships, 30 percent of the vice-chairmanships, 30 percent of the membership on committees.

Each of eighty members serves on four committees and each of them has his own pet preferences where he wants to go, and it is real hard to balance out those twenty-five committees. That took about two weeks.

Sharp: But there was a certain sense of needing to map out the teams, so you knew some of what you would be facing as speaker?

Lincoln: Yes. You knew about what the key issues would be, what the key bills would be, who would be the noisy ones and have the most to say, who would be the most effective ones, and a few who would be totally ineffective. Each of these had to be worked in proper proportion. You knew, for example, that if you were for a highway bill, you had to get enough votes on highway committee to get the bill out of committee or you would never get anywhere. You knew that if you were not against liquor and horse racing, but if you felt they had to stay in their proper place, you had to have a strong chairman and you had to give him enough of a membership with a strong back so they couldn't be pushed around.

Sharp: Did you then begin to have some favorite people in the assembly that you liked to work with?

Lincoln: I tried real hard not to do that, but I suppose I did. I guess I was closer to the chairmen of all of the committees, and the chairmen of the four or five strongest committees that had the biggest bills and the most money involved.

Sharp: Had you met Caspar [W.] Weinberger before you became speaker, or was it afterwards that he came?

Lincoln: I don't remember the year he arrived, but he was there. He supported me is my recollection.

Sharp: He seems like a pretty important Republican from what we can tell.

Lincoln: He's an outstanding human being.

Sharp: He has been around a long time.

Lincoln: Yes, on the order of Bruce [F.] Allen that we've talked about earlier. He [Weinberger] is not a political animal. He's not the best politician in the world. But he has got a depth of understanding and reads a lot and, of course, today has national and international contacts. He was very helpful to me in many ways.

Oil, A Primary Legislative Issue

Sharp: I want to ask you now about some of the main legislative issues that occurred when you were speaker. Two of them that are probably the most intricate are water and oil. You had mentioned yourself that oil was one of the important things to talk about.

There had been a controversy going on for a long time about Long Beach. Long Beach had received revenues from its own tidelands for a very long time and it had gotten an enormous amount of money. The city of Long Beach really developed as a result of these millions of dollars that came into the city. Now, Bruce Allen's compromise bill (it was not his original bill), passed early in 1956, was meant to say that those revenues reverted to the state, rather than just to Long Beach.

How were you involved in the passage of that bill?

Lincoln: Your background is a very clear statement. There was a situation there where a tremendous amount of oil was discovered in a relatively small area that had previously been deeded to the city for nearly nothing. Because of all this oil money coming into Long Beach, their taxes were reduced way below the average of any other community in the state. They built their public facilities and even some of their streets with oil money.

Bruce Allen early on took the position that this area was underground, was offshore, and really belonged to the state rather than to any particular municipality. I don't suppose that idea was original, but Long Beach was very quick to knock it over and fight back. To my amazement, Bruce kept generating support and it wasn't so much because of high statesmanship on our part as it was that we knew we needed beaches and parks and highways and schools and prisons and all of those things.

We couldn't see one community getting a free ride on taxes in that. We felt that some of this had to go into the statewide pot. So if you were chairman of the Beaches and Parks Commission, you were in favor of Allen's bill for oil taxes. That gained him a lot of support in our house.

Lincoln: Long Beach came up here with a strong lobby and tried to kill it off and couldn't. I have forgotten whether it went through the first session or the second session. They did hold it up in the senate for a while. But it got down to where the case was made, Bruce Allen made a lot of speeches around the state, and more and more of the newspapers supported his position.

I remember the L.A. [Los Angeles] Times was supporting Long Beach something fierce--front-page stories about Bruce Allen trying to steal from their area. The large law firm in Los Angeles by the name of O'Melveny and Myers was retained by the city of Long Beach for the then unheard of rate of $75 an hour for senior men, $50 for middle bracket, and $30 for the younger guys.

Allen's bill went through the legislature. It got challenged in court. Bruce Allen was not officially representing the state in that he was an assemblyman. But two young members of the attorney general's office were representing the state. Over a period of two or three years Bruce had this thing researched for comparable situations around the nation, back history and citings of cases that he fed to these two young guys out of the attorney general's office. I remember that our private conversations later in the legislature were that the people of California will never know how much this $300-a-month assemblyman and the two $800-a-month attorneys did for beaches and parks in California against the hottest rocks in the state attorney wise and the biggest newspaper in the state. It was a landmark situation.

Sharp: It was especially in the sense that it was during your term--your years as speaker--and Goodwin Knight's years as governor that the state budget all of a sudden had to become much larger than it had before. Naturally nobody really wanted to raise taxes. The sense of being able to tap the tidelands revenues must have seemed very attractive to almost everybody for whatever reason.

Lincoln: Yes.

Sharp: Within the assembly and the senate then what kind of opposition did you have to the bill?

Lincoln: Anybody within the sphere of influence of the L.A. Times and anyone who lived in that general area would have been opposition. Now, that wasn't too tough for the senate because I think there are only eight out of forty [senators] that were within that sphere of influence. But it was tough in the assembly. There were thirty-five or more assemblymen from that immediate area and there were a few others that had their own little pet reasons for going against it. I've forgotten the details. There were a few other communities

Lincoln: that were forewarned, "Hey, you may have a little oil off your coast or you may have something else and once you open the door to this, you're going to get hurt." So it wasn't too easy.

Sharp: That's really all I wanted to ask you about the oil bill.

One Last Note on the Loyalty Oath Controversy##

[Interview 2: February 28, 1980]

Sharp: During the last interview, we talked about the whole McCarthy era in the sense that the United States felt it needed to come to grips with subversive activity. You were very clear in telling me how you reacted and how your fellow assemblymen reacted, but I really didn't ask you what you thought of the whole controversy at the time when all of this was going on.

Lincoln: I felt like it was a problem that was blown all out of proportion. I felt that someone who was genuinely disloyal would have no hesitation at all in signing a loyalty oath. I was concerned with the apparent growth of Communistic activity and interested in stopping it if there was a logical way to do it.

However, I felt that Randolph Hearst and those who followed him were selling an awful lot of newspapers, getting a lot of excessive publicity, and creating an ongoing problem that went on at least for months if not for years, that was disproportionate in size.

It was interfering with the development of the University of California particularly. It was interfering with the legislative process. There were people in this state, including Harold Levering, who couldn't think of any other thing.

I guess deep in my heart I was hoping it would go away, and we were looking for some kind of innocuous language that would kind of compromise the issue and put it away.

I recall being generally opposed to it, but I'm quite certain that there were times when I voted for variations of it or for compromises in an effort to do away with it. This started in the early fifties. When I arrived on the [University of California] Board of Regents in January of '56, there were still regents who could hardly speak to each other; there were still wounds. Bob [Robert G.] Sproul was scarred for life.

Sharp: When you look back on the controversy now, does it still seem as though it was blown out of proportion?

Lincoln: Very much so. Yes, it does. I don't think we accomplished a thing in all of that time, but we used up an awful lot of energy and delayed efforts that were urgently needed in other directions.

Sharp: Generally there were other pressing issues that were facing the assembly and the whole state legislature during this period of postwar development--using the funds that had not been used during the war and all the building that you have talked about before. You spoke last time about your need to at least satisfy part of the California population, that you all had to talk about and you had to deal with the subversive threat because it concerned Californians.

Lincoln: Yes. You can't say much more than that.

Sharp: I just had wanted to give you a chance to sum up how you felt about it because I think we had done everything but that.

Lincoln: How I felt then as against how I feel now might be different, but I don't think so. I remember being thoroughly disgusted with the amount of time and energy and the bitterness that went into it.

Water and the Assembly

Sharp: The next topic that I wanted to talk about is the other major legislative issue for Goodwin Knight's administration and that is water. Tell me first about the 1956 special legislative session that Goodwin Knight called. This addressed the water issue particularly. I wondered especially how the Department of Water Resources came into existence.

Lincoln: My recollections are vague and I was just looking to see if by any chance I had some of those old water reports, but I can't see them handy. We all recognized that California suffered from an abundance of water in the north that was flowing into the ocean, and a shortage of water in the south, and a shortage of water in the valleys for our farmers. We pretty well agreed that a department especially oriented to that problem should become a major part of state government.

As I vaguely recall that special session, the only significant purpose was to authorize the establishment of this department. I think we met for about thirty days. We agreed in principle, but

Lincoln: whether legislation was actually passed during that special session or not, or whether it carried into the next one, I'm not certain. [tape interruption for review of material with Mr. Lincoln]

There were so many wheels within wheels. Basically we had the situation where federal government generally controlled all major water developments throughout the nation. Californians, particularly southern Californians, were not willing to have these decisions made in Washington. They wanted them made here. That meant that the state of California had to somehow attempt to wiggle itself into a position with respect to our overall water problem superior to that of the federal government. This was impractical and politically impossible. Yet all of us agreed that if we could control it closer to home we would all be better off.

Ongoing efforts were made to cooperate, and the first step was to have a strong department of water of our own that could stand up to the people in Washington. Mr. [A.D.] Edmonston was an oldtimer in the department and had roots deep enough so that he could not be replaced. Yet he did not have the qualities of political leadership that were necessary to make it work. I think he was an outstanding engineer.

Goodwin Knight was caught in the middle--on the one hand, being accused of doing nothing or being uninterested, and on the other hand, of finding no basis of compromise where he could get a majority to go in one direction. As I recall it, in '58 we passed legislation for some $4 million to buy the site of the Feather River Dam and the San Luis Dam. I remember traveling with the governor up to the dedication of that dam site that three years later Pat [Edmund G., Sr.] Brown went back up and dedicated over again. I remember funds being appropriated for very expensive studies on how to bring that northern water to southern California. I remember that Knight advocated studies of alternate routes called "coastal possibilities" of bringing that water to southern California.

I recall that Bruce Allen authored legislation for about $5 million to bring water into the Santa Clara-San Benito Valley. I also recall that southern California legislators generally refused to really implement the broad California Water Plan until they had absolute concrete, constitutional guarantees that they would participate in that water on a basis that they thought was equitable to them. Of course, the minute the people in the north who had the water in the mountain counties, the Bay Area cities that had their East Bay Municipal Utility District, and San Francisco who had Hetch Hetchy, as well as the farmers in Turlock and Fresno would hear these stories of building these fabulous dams, and these hundreds of mile long lines to bring water to southern

Lincoln: California, they all would become extremely noisy because they could see that it was of necessity then an extremely expensive development that was related to water going to southern California. A large part of this water was for human consumption and manufacturing where they could pay almost any amount per acre--$40 to $60 per acre-foot maybe--whereas the farmer in Turlock maybe could pay $3.50. There was such a wide discrepancy between the one need and the other needs that there was no way anyone could resolve that problem quickly.

I recall that both the senate and the assembly had their standing committees working on it and we had special interim committees. I recall one time, about 1957, when things were stalemated, and it was decided there had to be then a super committee of the leadership of the two houses. I wound up as chairman of a joint water committee that carried out studies and wrote a lengthy report that we brought to the legislature in '58 and were very, very close to having agreement upon.*

My recollection was that Pat [Edmund G., Sr.] Brown, the then attorney general, raised enough technical points of law that he wanted to study it further. He recommended that it be put off until the next session. I remember William [A.] Munnell, the Democratic leader in the assembly, passing the word to his people that reapportionment was staring us in the face, that the Democrats were going to take over, that Pat Brown was going to be the governor, and that it would be foolish for the Democrats to support any kind of a water program in '58 and '59.

Sharp: That is one of the theories about why Governor Knight was unable to pass some sort of a California water plan because there was enough Democratic opposition who wanted to wait until he perhaps was out of office.

Lincoln: Well, it's more than a theory. The recall will show clearly that perhaps 80 or 90 percent of the Republicans north and south were supporting it and maybe 20 percent of the Democrats north and south were supporting it.

Sharp: Why then in '56 was Knight able to get through the establishment of a Department of Water Resources and a rather large appropriation for the Feather River Project?

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*This committee probably was the Joint Committee on Water Resources Development Problems.

Lincoln: I think that no matter what direction it would ultimately go, the problem was so large in dollars and so long in time span, that everybody agreed that you at least had to have a department. You had to have a skeleton of an organization ready to move when you were ready to move.

Sharp: Part of our happiness with bureaucracy: if we have a department, then we know that we are making some sort of progress?

Lincoln: Right.

Sharp: I had not heard this idea of the concern with federal control or federal power over any California projects. With the establishment of a strong Department of Water Resources, you really thought that California would then have power of its own to push against the federal government?

Lincoln: Yes, we were afraid to have the Congress and the department in Washington tell us how to divide our water. Amazingly enough, the utilities were very heavily involved. You remember the federal government was getting into the utility business about that time. We had our own independent electric companies, some of them municipally owned and some of them privately owned, that envisioned the federal government dispensing the power that would come from these dams. They wanted that to stay in California too.

Sharp: We have very meager information about the state-federal relations, especially in California and regarding water. So I think you have filled in just enough for us to go on at this point.

Lincoln: I'll make one suggestion to you. The chairman of the assembly committee at that time was Francis [C.] Lindsay, who then lived in Loomis and who now lives in Auburn.* He has very vivid recollections of that problem and was especially well-qualified. From a legal point of view, the man that served our purpose the best was Bruce Allen, whom I have mentioned to you before. Either one of those two would give you a lot of detail on that water program if you wanted to get into it with them.

Sharp: I did talk with Judge Allen last week and mostly we talked about oil because he was so involved in that. But he did talk about water and his comments were very interesting because he told me about the concerns of even the Santa Clara Valley for water.

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*This was the Conservation, Planning and Public Works Committee.

Lincoln: I wish I could be more helpful. I did go through some old files, but my things are not organized and I really couldn't find anything to sharpen my recollection.

Sharp: It is hard for us. It may be harder for you because you have a sense of what you are looking for. Since we don't know what we are looking for, we have got to get a little more mileage out of our ignorance.

The "Big Switch"

Sharp: The next controversy I wanted to ask you about may not have much to do--or maybe it does--with the legislature. It is the "Big Switch" that occurred in 1958 when Goodwin Knight did not run for re-election. He ran for U.S. Senator instead of William [F.] Knowland, who, of course, ran for governor and both then lost. There have been a lot of theories, but I wondered since you were there, what you thought of the "Big Switch" and why it happened.

Lincoln: I was awfully close to that picture and I do have some recollections. Goodwin Knight was a relatively good governor who enjoyed the support of labor. He learned how to do that from Earl Warren. He was more conservative than Earl Warren, but he had made his peace with labor. He had promised them that he would veto any anti-labor bill that was put through. He was looking forward to re-election to a full term. I, for example, had agreed to be his campaign chairman in Alameda County. I attended informal, early meetings of putting the campaign together. The outlook was relatively good for re-election with labor's help and being just a little bit moderate as a Republican. He had a fair chance of getting 30 or 35 percent of the Democratic vote that was necessary to win, and he was the incumbent.

Everything was going along fine until we started hearing whispers that Bill Knowland might want to run for governor. I won't say that I was ever close to Bill Knowland, but I was close to his father, who ran the Oakland Tribune. I sensed that Bill Knowland was very unhappy in not having a chance to run for the presidency. It was more and more apparent through that period that the governor of a large state had more chance of becoming a president than a senior Senator. About the same time the right-to-work issue was coming

Lincoln: forward to a very large extent.* Goodwin Knight was opposed to this, as were a lot of Republicans and all the Democrats. Bill Knowland was strongly for it.

There came a time when labor in California told us that they would not support [President Dwight D.] Eisenhower for re-election if [Richard M.] Nixon was on the ticket.** These same labor people encouraged Knight to try to become the vice-president. Of course, that created a very chaotic condition in the inner circles of the Republican party. We had a difficult period of many months, as I recall it, when different messengers, including myself, were going back and forth between Knight and Knowland trying to convince each of them that they better stay where they were to keep peace.

Sharp: Did you go and see Knowland?

Lincoln: Not at that stage. I don't recall whether Knowland formally announced, but there were at least rumors. I think he took two steps--one that he was not going to run for re-election, and then, later, that he was going to run for governor.

Sharp: In January '57 he held a press conference and said he wasn't going to run for re-election. Then several months later, he said he was going to run for governor.

Lincoln: Yes, now that you've refreshed my memory, I recall that it happened on the first day of the legislative session of that year, at the precise hour that Goodwin Knight was standing on the rostrum of the assembly, where I had just introduced him to give his state of the state address. In the middle of that address, the back door opened and the AP [Associated Press] handed me a teletype sheet that said that Bill Knowland had just announced that he was not going to run for re-election [as U.S. Senator]. We could all see that the timing of that was not an accident.

We advised Knight of what we learned, of course, when he was through with his talk, and he was upset. I don't recall that there was anything that could be done at that point. But starting then,

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* Right-to-work did get on the November statewide ballot in 1958 as Proposition 18.

**For additional information on Richard Nixon, see Richard M. Nixon in the Warren Era, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1980.

Lincoln: everybody involved in the hierarchy of the Republican party could see a horrible crash coming. It finally reached the point later on when Bill Knowland announced that he was going to run for governor and we had had word from the Chandler family, the L.A. Times, and that handful of wealthy millionaires that financed the right wing of the Republican party that Goodwin Knight would just have to get out of the way. They then started propositioning Knight to run for the [U.S.] Senate. They didn't want him to run against Bill Knowland.

Sharp: Was this because of the right-to-work issue?

Lincoln: Well, generally they felt Knight was too liberal and too friendly with labor and right-to-work was a part of that. They felt that Bill Knowland had a fair chance of running for president later on if he could come from the governor's seat. They felt that Bill Knowland would go along with right-to-work and had themselves convinced that he was electable.

We who were junior on the political pole tried to show all of these people that a family fight or a right-wing program would only result in losing a lot of seats in cities, counties, and state government, and probably defeat the guys at the top as well.

As it turned out, we were unable to resolve the problem. When it came filing time, I recall that eight assemblymen, including myself, chose not to run at all because we couldn't see daylight on the Republican side. Eight others who chose to run were beaten. For eight incumbents to be beaten in any one election is very much out of the ordinary. The net effect was that the assembly was taken over by the Democrats that following January [1959] and Pat Brown won handsomely [as governor].

As I recall it, Goodwin Knight received a lot of encouragement to run for the Senate, some from his more liberal labor friends. Mostly, however, it was kind of a planned program coming out of southern California from the right wingers who didn't want Knight to be a Senator nearly as much as they wanted him to be out of the way so Knowland could be a governor.

Sharp: It is in November of '57 that Knight decides that he will run for the U.S. Senate. I wonder if you recall those few days. Did he talk to you, or did you talk to him about what was going through his mind?

Lincoln: Yes, I recall that he took time off to think. I recall that he spent some time in Palm Springs and that he made a trip to Washington [D.C.]. I think he made his announcement finally from

Lincoln: Washington. I recall that [Clem] Whitaker and [Leone] Baxter, the political strong arm of the Republican party in those days, were pressing him awfully hard also. In summary, all I can say is that Goodwin Knight wanted to be governor again very badly. He wanted to stay in California. He had no desire to be a junior Senator. But he was pushed into a corner where he had no choice. He did it most reluctantly.

Sharp: What support was there in the assembly for Goodwin Knight to run for re-election?

Lincoln: Each of us had our own problems and our re-election program. Most of us reflected the district we came from. If we were from a moderate district, and if our newspaper wasn't too strong, as a generality, Goodwin Knight had good support in the assembly. If we were from Piedmont or Altadena or Pasadena, if we were under the wing of the L.A. Times, then even though we might in our heart feel a lot of support for him, it just wasn't politically wise to be very outspoken about it.

Sharp: What was the impact of the "Big Switch" on the assembly--I mean by the "Big Switch" perhaps the point in late 1957 when Knight does announce that he would run for the Senate.

Lincoln: In those days you must recall that the sessions were over about June.

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Lincoln: I remember one session in Goodwin Knight's office, shortly after Bill Knowland formally announced, when he said, "Abe, you represent a portion of Alameda County and the Tribune has always supported you. Though you agreed six months ago to be my county chairman, I want to give you a chance to pass because I don't see how you can get re-elected and be my chairman under those circumstances.

I took the position that, if he wanted me to, I would like to stay as chairman because I felt strongly that Bill Knowland was making a mistake. I told that to Bill Knowland on several occasions, in as nice a way as I could. But the die was cast. He [Knowland] was a very strong-minded man. Some very big people had given him a lot of advice and a lot of promises. He had commitments. He felt strongly about right-to-work. I don't recall that anything very constructive happened. We were just thoroughly disgusted and spent our time commiserating with each other. There just was no daylight for the Republican party.

Sharp: Was it your personal feeling that Knight could have won had he stayed in the race for re-election?

Lincoln: I don't think he could have beat Bill Knowland in the primary. He could have beaten the Democrat in November. You see, even in that period and it's even more true now, a Republican primary is won or lost in southern California. In those days, it was just a question of the L.A. Times. Now it's the TV stations. But, numerically the Republicans and especially the monied Republicans are down there.

Sharp: Since I'm a TV child, I don't have the same sense of the power of the newspapers. Tell me more about the newspapers and their role in elections.

Lincoln: All right. Starting with the Chandler family in Los Angeles and going up through Fresno and Sacramento to the chain owned by the McClatchy family (they were conservative Democrats, by the way),* and then going to the [San Francisco] Chronicle family in San Francisco (I don't remember the name; it was a French name there),** and the [San Francisco] Examiner, there were about five publishers that could and did meet regularly in their newspaper organizations, and then informally discuss politics. If those five newspapers decided an issue on the ballot or supported the election of a candidate unanimously, it was tantamount to election. There was no way you could beat them. This was true in California for many years.

Now, on some issues and on some candidacies they wouldn't agree. A public relations firm who was handling a proposition or a candidacy would immediately verify where those four or five big newspapers stood. If there was not a unanimity of opinion, they knew immediately, number one, they couldn't collect any amount of money for a campaign, and number two, anything they would get of consequence from the newspaper would have to be paid ads. So they knew they were beaten. Well, if you are beaten three or four times on something, you were not in the public relations business anymore. So it is unbelievable really the extent to which newspapers controlled that situation.

Fortunately, I think, on an average they make relatively good decisions for the state. We are probably lucky it was handled that way rather than some other way. Today, of course, the

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* The Sacramento Bee and others.

**Control of the Chronicle passed to Charles de Young Thieriot in 1955.

Lincoln: total reverse is true. Newspapers have amazingly little influence and the face on the TV screen for forty-five seconds at six o'clock and eleven o'clock in the evening is everything.

Sharp: That is all of my questions about the "Big Switch."

IV FLASHING BACK: THE REPUBLICAN NATIONAL CONVENTIONS OF 1952 AND 1956

Sharp: I did pull out some questions I wanted to ask you on the 1952 and 1956 Republican national conventions since you said that you had gone to both as a delegate. Let's talk about the train trip to the convention in Chicago in 1952 first of all. I know that you were a delegate, and presumably those delegate duties start once you get to the convention, I suppose. Did you have any special role on the train, things you were supposed to take care of?

Lincoln: Yes, I recall being on that train. It was a very interesting trip. Oh, on the train I would say not. We had a couple of pre-meetings and I had been assigned to get acquainted with the delegation from Arizona. We had learned that the speaker of the Arizona assembly was a delegate, and I had met him a couple of times. I recall exchanging a couple of telephone calls with him, agreeing to meet him back there, and promising him that I would bring Earl Warren by to see his delegation.

I don't know how much detail you want to go into on the train trip, but I will give you a few highlights that are more personal than political, I guess. The train started in Los Angeles and stopped in Sacramento at noon for a lunch on the capitol grounds. Then, we all boarded it about two o'clock and took off. The Earl Warren family had the last car on the train. It was a long train--fifteen or twenty cars. Mostly the trip was greeting old friends, talking politics, and having a drink together, but there were always heads together discussing various angles, and certain senior people had assignments. We were planning on how to disembark from the train and [wondering if] there was going to be a band.

We were questioning where was Dick Nixon. He wasn't on the train and the word went through the train that he was going to board at Salt Lake. Then, he didn't board it there. Later the word was he was going to board at Omaha, and he didn't there. Finally, somewhere

Lincoln: over in Iowa he got on the train. He came through the length of the train and shook everybody's hand. Two or three of his friends, Murray Chotiner and Congressman Pat [Patrick J.] Hillings, were passing the word that Nixon had been in Europe to meet with Eisenhower and that was the reason for his delay. I don't recall that we were aware of that until he came aboard the train.

Then the evening before our arrival, we were all passed out gold jackets, Earl Warren hats and balloons. We were told that a band was going to meet us and that two busses were taking us up to the hotel. Mr. and Mrs. Warren were going to get off of the train in front of us, and Bill Knowland and Nixon right behind them. The rest of us were to swarm around them and we were to stage our little scene for the photographers. About fifteen minutes before we got into the station, Nixon wasn't to be found. The last five miles going into the station in Chicago (they go at about three or four miles an hour), somewhere out there Nixon had jumped off the train. That caused a lot of consternation.

Then, in a matter of hours the word was going around that Nixon was not nearly as loyal to Earl Warren in his support as a Warren delegate as he was supposed to be. Pretty soon the word was going around that we shouldn't support Earl Warren as a dark horse if Taft and Eisenhower were to deadlock for the presidency, nor should we support Earl Warren for the vice-presidency. Rather, Nixon should be supported for the vice-presidency. The word was that he had been promised this a few days earlier in Europe, if he could swing the California delegation to Eisenhower.

There were some very brutal little committee meetings held at odd hours around the hotel on that subject, a lot of it based on rumor. In retrospect and hindsight, there was a lot of fact to it apparently. I have forgotten to what extent it was publicly known immediately, but the papers were full of it later on. The fact was that Earl Warren felt like Nixon could not be trusted, and his dislike for Nixon was very apparent from then on until his death.

Sharp: What went through your mind when you found out that Nixon was not on the train and you began to hear all of these rumors?

Lincoln: The first reaction was that they were rumors and you couldn't believe it. Secondly, I guess, after you start believing it, you realize there isn't anything you can do about it. Human beings are ambitious and this is the nature of the beast. You don't approve of it, but there isn't much you can do about it.

Sharp: Was it to be expected from Mr. Nixon, or was there any feeling about that?

Lincoln: I don't think at that stage that Nixon's roots were deep enough to where he had been identified as being any particular person who had to have special watching. You see, he had been a junior Senator and then a congressman for a short term, and other than that one episode with [Clem] Whitaker he hadn't made too much of a reputation for himself.

Sharp: I would like to ask you a little more about opposition to Earl Warren in 1952 and talk about the Thomas Werdel delegation. What did you know of it and how was this opposition expressed?

Lincoln: That situation in the Republican party. It has always existed. We have it right now with [Ronald] Reagan. The right wingers and the Reagan group have ousted the more moderate people just this last few days.

There was always a group of Republicans who felt that Earl Warren was too moderate. [Thomas] Werdel was a senior congressman from the Fresno area who was known for his strong right-wing leanings. He had a lot of large corporate farmers supporting him who were afraid of unions. He was a strong right-to-worker; Earl Warren wasn't.

I think always the Republican party for almost any office has, in the primary, one candidate who is representing what I think of as an extremely right-wing position.

In my humble opinion, from a working man's background and representing working men (blue collar) constituencies, if the Republican party starts out with an ultra-conservative in the primary, he can win that primary beautifully, but he always gets beaten in November.

Conversely, if you take a moderate Republican and let him win in June, he has got a chance to win in November. It seems to me that it is more logical to have 80 or 90 percent of the things you believe in as a right-wing Republican than to go for broke all the time.

Sharp: This right-to-work issue is fairly pivotal in the fifties, then?

Lincoln: Yes, it was strong. It lasted even longer--and was stronger perhaps--than that loyalty oath.

Sharp: Yes, I think it did from what you have mentioned. I would like you now to come up four years. I want to ask you a few questions about the 1956 Republican national convention when there were perhaps even more rumblings and false starts in terms of the convention. This

Sharp: was the convention where Goodwin Knight attempted to launch a vice-presidential bid. It was not a formal bid by any means and yet it was fairly definite, at least according to some of the people who surrounded him. I wondered what you knew of this bid?

Lincoln: Was that in San Francisco?

Sharp: Yes.

Lincoln: [pauses to reflect] I recall relatively little about the bid. I realize it existed, but I never took it seriously personally, and I don't recall that Goodwin Knight was taking it personally. I think Goodwin Knight in his heart would much rather be governor than vice-president. He and his family enjoyed California and had deep roots. He was already into his sixties and that is late to start as a junior man in Washington. I think he enjoyed the notoriety of it and basked in it a little bit. I don't think he ever expected it to happen. I don't recall us ever being asked to do any work in that direction.

As I recall it, the California delegation at that point was a compromise delegation where [Richard] Nixon got to name a few and [William] Knowland got to name a few and [Goodwin] Knight got to name a few. Some of those people couldn't even speak to each other. It was uncomfortable to the point where I recall nine o'clock meetings in the morning where we would just identify ourselves, answer the roll, and say good-by, and nothing would happen.

That was perhaps the beginning of the end of the Republican party that controlled California.

Sharp: Was it too many ambitious people in the same state?

Lincoln: Yes. I think that Goodwin Knight was completely happy as governor and did not want to go to Washington in any capacity--Senator, vice-president, or president. But, he did want to run the Republican party as titular head of the party. Bill Knowland, as the majority leader for a while through that period when there was a Republican majority and a very senior man, was not about to let some guy from out here control the California votes. Dick Nixon was strongly ambitious and had a few of those fellows in the backroom encouraging him, and he wanted his slice of the party.

We just had three strong leaders who couldn't agree on anything at all. The rest of us were just kind of following along behind and enjoying the show, but terribly disappointed in our organizational situation.

V A TIME FOR CHANGE: AFTER 1958

On Goodwin Knight

Sharp: I wanted to ask you a little bit more about Goodwin Knight and the period then after all of this was over, after 1958. There was some attempt by Goodwin Knight to run for governor again. This was for the 1962 election year, but his campaign was so brief it only covered part of 1961, as I recall. He became ill with hepatitis and had to drop out. I wondered if you had helped him with this brief campaign, or spoke with him about it?

Lincoln: Yes, I did attend two or three meetings in southern California with maybe a dozen people present where we discussed it, and where Knight showed considerable interest, but he was very realistic about it. He made it very clear to us that circumstances had to be right. There had to be funds to run a campaign and there had to be a good chance of winning or he wasn't interested. He was very quick to assess the fact that the Republican party was in deep trouble, that there probably would not be money, and that he was a controversial figure. He was well into his sixties and he could not see daylight. He as much as told us that if the circumstances developed, he would become a serious candidate. I don't recall the circumstances developing. You are right, he started to show his age all of a sudden, as I recall.

Sharp: I've seen pictures of him. He looked quite a bit older from 1958 to 1962. That four years must have been very difficult for him.

There was also some rumor that you might run as his lieutenant governor. Was that true?

Lincoln: Well, that was bounced around too. I had my friends telling me what a great guy I was, and that I ought to be lieutenant governor. [chuckles]

Sharp: Did any of this become real then? Did the funds become real?

Lincoln: No, we did not reach the point of any organization or any fund raising that I can recall.

The Appointment to the State Compensation Insurance Fund

Sharp: The last questions I have deal with your appointment to the State Compensation Insurance Fund in 1958. Now, Governor Knight appointed you to the board. Did you consider this a straightforward political appointment?

Lincoln: Well, when you are forty-odd years old and you are through in politics, it is awfully hard to come back home, sit down in an office, and start deciding whether you should paint the next house yellow or blue. You want to be involved--you know the people and you know the problems. It is an interesting life, and I still had hopes of becoming active again.

It's normal in the legislature as vacancies occur to all of these hundreds of boards, commissions, and judgeships to get involved in them. Most of the time you are getting involved for your friend back home who wants to be on the county fair board, the next judgeship, or something like that. You write letters and you lobby the governor. Sometimes the guy is right for the job and everybody else in the county is for him. You are for him, the governor appoints him, and you think, "The governor did that for me." Well, maybe his campaign chairman wrote the same letter and maybe his finance chairman in the county, maybe the local newspaper editorialized, and the governor couldn't have appointed anybody else if he wanted to.

So if you are an attorney, which I am not, you start looking at judgeships after you have been in Sacramento for a while. You get tired of the treadmill and you start envisioning yourself sitting on the bench. Many of the assemblymen over the years, of course, and senators have turned out to be judges, most of them good judges.

The very best assemblymen and senators would not take judgeships when they were offered to them. That never hit the newspapers. A man in his thirties and forties, if he is a good attorney and successful and if he likes the legislature, is not ready for the sedentary job of sitting on a bench everyday. He is making maybe twice as much as a judge makes and he has still got kids in school and he can't afford the luxury of it.

Lincoln: So going to your next question, was this an appointment for me and a plum? Ranking in importance and interest, this particular board is a very small plum. I think we got $20 a meeting once a month in San Francisco. It is not the kind of an organization that is in the newspaper where you get publicity or where you were building political roots. Nonetheless he [Governor Knight] offered it to me and I accepted it. I enjoyed it for four years. It was the largest insurance operation of its kind and it is to this day. As I look over there, it is well-managed, has never been criticized, and is one of the few operations in government that I know that is run fairly well. I was proud to be associated with it for a brief period of time.

Going a step further, frankly, what everyone wants and what I wanted if I had a choice was a seat on the Board of Regents. That's the most fabulous appointment you can imagine, unbelievably significant.

Sharp: Why?

Lincoln: Well, the challenge and the people, I guess. Having spent four years there as a regent, I know you spend two days a month on each of the eight different campuses in the beautiful atmosphere of landscapes, lawns, beautiful buildings, and extremely interesting people. The leadership on each campus that are your hosts are, of course, very gracious and they are talented and intelligent. The regents themselves are just outstanding human beings, totally different. Some of them you can just jump up and down over.

Sharp: I have been amazed at some of the people who have become regents. I don't know if I would want them all in the same room together!

Lincoln: No, it's hard to explain, but to be a part of that growing operation and around young people two days a month is a real treat, I'll tell you. Just to walk the campus is a treat. There were no vacancies, and I am sure there would have been a hundred applicants if there had been one. I haven't any reason to think I might have even received it, but in my dreams this is the kind of an appointment I would have liked to have had.

Sharp: What were the duties of the State Compensation Insurance Fund?

Lincoln: A state compensation insurance fund sets rates by which employers pay a percentage of the payroll into that fund so that an employee who is out of work can get insurance if he is injured or sick.

Sharp: When you were setting the rates, was it a matter of your looking at the picture of the economy of the state, and then knowing that the rates had to be changed?

Lincoln: To a degree. [pause] The legislature to some extent had a hand in setting the rates. I have forgotten the circumstances, but the agency at any rate administered the money and invested the funds. There were several hundred million dollars in reserve to be invested in dividend-producing investments. There were qualifications of employees as to whether they were 30 percent disabled or 70 percent disabled, and things of that nature. It was a little bit akin to being on the board of directors of a bank, let's say, or some kind of a financial institution.

Sharp: During Knight's administration, labor, of course, was very successful in its attempts to get higher rates for injury compensation and also unemployment compensation. Did these changes then affect you on the fund's board?

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Lincoln: Yes, I recall that we would make a biennial assessment of what the status of the funds was, and what the forecast was for the future. We would advise the legislature that if they left the present schedule of payments to injured employees as it was, maybe no change was needed, and if they wanted to raise it 10 percent then this had to happen.

Our general manager would appear before the legislative committees and give these reports. I don't recall that he ever was a lobbyist in the normal sense. I know that in the four years I was there, we had no occasion to do any lobbying. We were not setting policy at that level. I think it was an administrative situation almost entirely.

Sharp: That's what I understood, but I wanted to be sure that we had it right. I think that's all of my questions then.

Lincoln: All right.

Transcriber: Michelle Stafford
Final Typist: Marilyn White

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Page 4 — Contra Costa Times Sunday, June 29, 1980

Former Speaker of State Assembly

Luther 'Abe' Lincoln Dies at Age 66

WALNUT CREEK — Luther H. "Abe" Lincoln, a key figure in the glory days of California Republicans, died here Friday morning of luekemia. He was 66.

Mr. Lincoln was elected to the state Legislature in 1949 and served as speaker of the Assembly from 1954 to 1959.

He was a highly-regarded lawmaker, according to several Sacramento observers, including his close friend and Assembly colleague for many years, Donald D. Doyle of Danville.

After Lincoln voluntarily stepped down from his political post, he moved to Lafayette and then to Walnut Creek, where he spent the rest of his years in the family construction and lumber business.

His tenure in the Assembly took place when the Republicans controlled that house, the Senate and the governorship.

In 1958, Republicans lost their long-held control on state politics when Edmund G. "Pat" Brown defeated Sen. William F. Knowland in the gubernatorial election.

For a brief period in the late 1960s, the Republicans once again held power but for the most part, the Democrats have dominated Sacramento since the late 1950s.

Doyle, who represented Contra Costa in the Assembly from 1953 to 1959, said Lincoln was particuarly interested in transportation matters and was responsible for major highway legislation in the early 1950s.

He described him as a warm man, able to work both sides of the aisles because of his personal touch and "moderate" Republican outlook.

Although Lincoln stepped down from his Assembly seat to return to private life in Contra Costa, he had a change of heart in 1972 and again ran for the Republican nomination for the Assembly from Walnut Creek.

He lost that bid to then-county Supervisor Warren Boggess, who was defeated by Daniel Boatwright.

Nicknamed "Abe" early in life, Lincoln was interested in American history, his family, work and church.

He was an active member of Our Savior's Luthern Church in Lafayette and served on the National Board of the religious order for many years.

Born in McCabe, Montana In 1914, Lincoln moved with his family to the East Bay early in life. According to family members, he had been suffering from luekemia for some time and checked into John Muir Memorial Hospital last Sunday for treatment.

Memorial services will be held at Our Savior's Luthern Church in Lafayette on Monday, June 30, at 2 p.m.

Sat., June 28, 1980 ★★ San Francisco Chronicle

Luther (Abe) Lincoln

Former Assembly Speaker Luther H. (Abe) Lincoln died yesterday in John Muir Hospital in Walnut Creek after suffering a stroke earlier in the week. He was 65.

An Oakland Republican, Mr. Lincoln served in the Assembly from 1949 to 1959 and was speaker during the last four years. He was the author of major highway and prison reform legislation.

After retiring from the Legislature, he moved to Walnut Creek and returned to the construction business. He was developing a subdivision in San Rafael at the time of his death.

He was a former board member of the State Compensation Insurance Fund and a member of the national board of the American Lutheran Church.

Mr. Lincoln was a native of McCabe, Mont., and was married to the former Helen Pedersen of Dannebrog, Neb. In addition, he is survived by three sons, Jerry of Walnut Creek, Michael of Sausalito and Gregg of Rohnert Park; a daughter, Susan Hayward of Des Moines, Iowa; four brothers, Kermit, Chester and James, all of Sacramento, and Richard of Oakland; two sisters, Elaine Berggren and Helen Petersen, both of Lafayette, and two grandchildren.

Memorial services will be held at 2 p.m. Monday at Our Savior's Lutheran Church, 1035 Carroll Lane, Lafayette.

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Regional Oral History Office
The Bancroft Library

University of California
Berkeley, California

Governmental History Documentation Project

Goodwin Knight/Edmund Brown, Sr. Era

Joseph A. Rattigan

A JUDICIAL LOOK AT CIVIL RIGHTS, EDUCATION, AND REAPPORTIONMENT IN THE STATE SENATE, 1959-1966

An Interview Conducted by
James H. Rowland
in 1978

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INTERVIEW HISTORY

Joseph A. Rattigan was interviewed by the Regional Oral History Office for the Goodwin J. Knight-Edmund G. (Pat) Brown era segment of its Governmental History Documentation Project. Rattigan's progressive legislation as state senator from 1958 to 1966, his role in supporting public and higher education in California, and his vivid recollections of key legislation in the senate, including the battle over senate reapportionment in 1966, made him a welcome participant in our documentation of issues and events in state government during the 1953-1966 period.

Born and raised in the political and legal environment of Washington, D.C., Rattigan followed his father's tradition of involvement in the governmental process. His father moved the family from the home state of Rhode Island to Washington and began a long career as Chief Clerk of the General Land Office as well as law partner with Wyoming U.S. Senator Joseph O'Mahoney. His father and Senator O'Mahoney had considerable influence on young Rattigan as he studied at local schools and college in the nation's capitol. Enrolling at Stanford Law School, with an interruption for military service during World War II, he graduated in 1947, and after admittance to the State Bar, began his practice in northern California. Senator O'Mahoney also encouraged Rattigan's interest in politics. His initial campaign experience began in 1948 when he designed radio advertisements for Democratic stalwart Roger Kent in Kent's ill-fated bid for Congress. By working his way up the Democratic hierarchy, he became Sonoma County Chairman for Stevenson in his presidential bid of 1952. In 1954, he was chairman of the state-wide Graves for Governor campaign, and in 1956, was again active in the Stevenson presidential campaign.

His own campaign for office came about in 1958. The Knowland-Knight gubernatorial "Big Switch" sent shock waves through Republican incumbents and encouraged Rattigan to challenge Sonoma County Republican State Senator R. Presley Abshire. Winning the election on his commanding presence, his governmental acumen, and the help of the Democratic party, he began a notable two-term tenure as a progressive rural senator with state-wide vision. His stand against the death penalty, his active support for the Rumford Fair Housing Act, his legislative proposals to improve the quality of public and higher education, as well as his agricultural legislation that benefited his rural constituents made him a symbol of a "cow county" senator who was educated, experienced, and compassionate--contrary to the then-popular image of rural legislators in bib overalls. He carried this symbol further while a member of the Governor's Blue Ribbon Commission on Reapportionment in his dissenting report defending senate county apportionment from the "one man-one vote" demands emanating from southern California. With senate reapportionment based on population inevitable in 1966, he was appointed by Governor Brown to the first district court of appeal in San Francisco, where he is presently presiding.

My two interviews with Judge Rattigan were held in October and November of 1978 in the conference room of The Bancroft Library at the University of California, Berkeley. After customary introductions, he opened the interview with a retracing of his family and personal history. He then turned to the Chessman death penalty controversy, recollections of the Senate Committee on Un-American Activities, his role as a partisan for higher education, and his work on judicial reform. Our second interview opened with his reminiscences of the passage of the Rumford Fair Housing Act in the senate, and moved to his perspective on the role of lobbyists to the legislature. He concluded the interviews with his analysis of the senate reapportionment struggle from 1960 to 1966.

After rough editing, the interview transcript was forwarded to Judge Rattigan for review. Several months later, he returned the transcript to our office after meticulously reviewing it page-by-page and noting corrections in the margins.

Clarity, precision, and detail are the hallmarks of the Rattigan manuscript. Students of state politics will be greatly enriched by his gifts of recall as well as by his analysis of the political process. As an oral history, his manuscript represents a stellar achievement in the documentation of history from those at the helm of the battle.

James H. Rowland
Interviewer-Editor

25 September 1980
Regional Oral History Office
486 The Bancroft Library
University of California, Berkeley

I PERSONAL BIOGRAPHY

[Interview I: October 4, 1978]##

Growing Up in Washington, D.C.

Rowland: Let's start by talking about your family history.

Rattigan: Well, I was born in Washington, D.C., in 1920. My father was a lawyer there, in private practice. He and my mother were natives of Rhode Island, and my father came to Washington as secretary to a congressman from Rhode Island in the very early years of this century. He went to law school at night in Washington, and became chief clerk of the General Land Office, which is now known as the Bureau of Land Management. He went into practice with a partner whom he had met when the partner was secretary to a senator. That partner's name was Joseph C. O'Mahoney. I am named for him. He became the United States senator from Wyoming and sat from 1933 until 1960, with two years of interruption when he was defeated and re-elected.

I was raised in Washington, and went to high school and college there. I went off in World War II, and went to Stanford Law School after World War II, and graduated in late 1947. I started the practice of law in north coastal California, in Ukiah, Mendocino County, first. I moved to Santa Rosa in 1949, where I still live.

I mentioned my father's law partner, Senator O'Mahoney, because I think his identity had a lot to do with my interest in politics.

##This symbol indicates that a tape or a segment of a tape has begun or ended. For guide to the tapes see page 71.

Rattigan: I married a Washington girl, with whom I grew up. We have six children, all born in California except one, who was born elsewhere, but after we established residence here. They are all grown and married or in college.

I still live in the same home in Santa Rosa.

I was active in politics in a small way in the elections of 1948, when I lived in Mendocino County, and in 1950, in Sonoma County, and much more active in and after 1952.

Early Political Involvement

Rowland: What was the extent of your political activity?

Rattigan: The extent of my participation in 1948 was limited. Incidentally, I was twenty-eight years old at that time, and it was the first time I ever voted because when I turned twenty-one, the then legal voting age, my only residence was Washington, D.C., which then had no vote. When I was going to Stanford Law School in 1946, I did not meet the then existing residence requirements to vote. It was not until 1948, when I lived in Ukiah, that I had the year of California residence and, I think it was ninety days, in the county.

In 1948, I made the acquaintance of Roger Kent, who was running for congress to succeed the now deceased Clarence Lee, who had been the congressman from the first congressional district of California for thirty-two years. All I did in 1948 was make some radio spots for Roger Kent. That is, I vocalized them. I also wrote them. I did not pay for them. I did make a financial contribution to his campaign somewhere along the way. That was a freakish election, because Roger got the highest vote of three candidates, but he did not get the nomination of his own party under the then existing [cross-filing] system, so he was not on the November ballot, although at the June primary he got the highest number of votes.

Hubert Scudder won the Republican primary, and Sterling Norgard won the Independent-Progressive party nomination. I don't remember exactly what the postures were, or who had the Democratic nomination, but it wasn't Roger, because he didn't win it. I guess Norgard won it; yes, Norgard won it. Scudder won and served in congress for ten years. He was formerly California Real Estate Commissioner in the early Warren administration. He lived in Sebastopol, California, Sonoma County.

Rattigan: Roger ran again in 1950, at which time I lived in Sonoma County. I was somewhat more active in this election, but strictly in his campaign.

In 1952 I was Sonoma County chairman for Stevenson. (I'm not sure of that now. I'm sure I was in 1956, but I'm not sure about 1952.) I did all I could in the Stevenson campaign and in the other campaigns for assembly and congress; there was no gubernatorial election that year.

After that, I became a member of the Sonoma County Democratic Central Committee. In 1954, I was chairman for Richard Graves's campaign. Richard Graves was the Democratic nominee for governor. I was Sonoma County chairman of Graves for Governor. Graves had been the director of the League of California Cities. He also hadn't been a Democrat very long, but he was a pretty good man. He did very poorly against Goodie Knight.

In 1956 I was a delegate from the first congressional district to the Democratic National Convention in Chicago, where I made the acquaintance of John Kennedy. The reason I made his acquaintance was that I was in the PT boats in World War II, as he had been. I had not known him, I heard of him, nor had we previously met. But when I met him in Chicago, and mentioned our mutual naval experience, we established a cordial acquaintance which became much more cordial as the years went on.

Then I was active in the Stevenson-Kefauver campaign in 1956. In 1958 I ran myself, against the Honorable F. Presley Abshire, a Sonoma County native, a farmer, and older than I by at least twenty-five years. I was one of the few Democratic nominees who that year defeated an incumbent state senator.

I had a very spirited campaign. I attribute the success of it to the coattails of Edmund G. Brown, senior, which was escalated by the Knight-Knowland split, and I attribute it to the support of labor, which was out in force, and with money, because of the right-to-work proposition, which I will never forget.

This, of course, was all under the old senate apportionment. The district was then the Twelfth District, and it consisted of Sonoma County only. The number of votes cast for the office of state senator was 55,000, and I won by 1,500. I lost all over the county except in the Sonoma Valley, where I broke even, and in the city of Santa Rosa, where I came out ahead. That's primarily because I had lived there, and I had been in city government. I had been on the City of Santa Rosa Board of Public Utilities.

Rattigan: I think the whole exercise was primarily attributable to luck, and possibly a somewhat lackluster incumbent. A very fine man, but not an attractive candidate.

So I was elected and started in the state senate on January 4, 1959.

Rowland: How would you attribute that even vote in the Sonoma Valley region?

Rattigan: That question can be answered, and I think accurately. There was, as there is, a large number of state employees who live in and around Sonoma and work at Sonoma State Hospital. The state employees were very down on the incumbent, by reason of his conservative voting record in fiscal matters.

Rowland: Did Abshire support the right-to-work proposition?

Rattigan: Yes, he did. He did not shout it from the mountain tops, but he was very much marked as an antilabor incumbent, and labor had its gunsights on him somewhat aside from right-to-work.

Actually, it was the right-to-work issue that turned out a very high vote in Sonoma County. That was a labor oriented vote and I profited by it because I was supported by labor, and because the incumbent had been antagonistic to labor and organized labor was antagonistic to him.

Rowland: Can you also attribute your victory to support from the Democratic party activities?

Rattigan: Yes, indeed. Van Dempsey, my old friend, and Don Bradley, my old friend. I had known both of them for at least two elections back. They were both in Chicago in 1956 for the Democratic National Convention. Yes, I attribute the success of it very much to the Democratic party, both state and local.

The only qualification on that, referable to the right-to-work proposition and labor support, is that the victory was very close, with a high voter turnout. I'm not sure it would have been that high, and therefore as favorable to myself, if the right-to-work proposition hadn't just provided the last impetus. But I certainly got a lot of support and help from the state and local Democratic organizations.

Rowland: Who went out and sought newspaper and news media endorsements for your campaign?

Rattigan: No one. I didn't have any.

Rowland: You didn't have any newspapers support you? They were all for Abshire?

Rattigan: Without exception, although not all of them said so.

Rowland: Even the Santa Rosa paper, your hometown paper?

Rattigan: Absolutely. It editorialized at least three times.

There were then the two dailies in Petaluma and Santa Rosa, both of which endorsed the incumbent. There were about ten weeklies, all of whom supported Abshire without exception. Excuse me, all but one. There was a second newspaper in the Sonoma Valley, called the Valley of the Moon Review, since defunct, that did support me. All of the others did not, although some of them editorialized no position; that is, they simply said nothing.

Rowland: How did the three men operate in your campaign? For instance, did Bradley and Dempsey handle the public relations?

Rattigan: No, none of them participated in any personal way at all. I went to a couple of meetings in San Francisco, where they were involved. Through one or both of them, or others, the state central committee sent up some money to help my campaign. Dempsey, at least, passed through a couple of times, and there was one big day in which Attorney General Brown came through and Don Bradley was with him. Brown, Bradley, and I spent most of the day together. There was a rally in the afternoon and a dinner in the evening.

II RECALLING ISSUES AND EVENTS IN THE CALIFORNIA LEGISLATURE

Impact of Death Penalty Decisions

Rowland: Let's turn to the death penalty issue of 1960, the Caryl Chessman case. How great an effect did that have on the legislative operations and relationships between both houses and the governor's office?

Rattigan: It did not disturb my relationship with Governor Brown in any way. A large number of legislators were very antagonistic to him for having sent the decision to commute Chessman's death sentence back to the legislature; some of them were antagonistic because they didn't want to vote on it, and others, because they felt it was simply cluttering up the special session. (That is, the extraordinary session. Under the old system, an extraordinary session was called in conjunction with the special session.)

A number of others were very much pro-death penalty, and they didn't want anyone to have an opportunity to repeal it.

I would say that Governor Brown's relationships with the legislature were adversely affected by what he did, but there were at least a few people, including myself, who were very much in favor of what he did, and who were recorded on the subject long before he did it.

Rowland: Now it was Senator Fred Farr who introduced the three-year moratorium--

Rattigan: No. He introduced an abolition bill, with a handful of co-authors, which included myself. I'm not sure that there was an assembly bill introduced that year, but at every general session Fred Farr introduced an abolition bill [in the senate] and Lester McMillan introduced an abolition bill in the assembly.

Rattigan: The Farr bill was heard by the Senate Committee on Judiciary, of which I was a member, for sixteen hours one day and one evening, all of which was taped for television live, and telecast over KQED Channel 9, San Francisco, about two hours behind the actual event.

The moratorium was amended into the bill at the committee hearing. I had the impression then, and I have it now, that the author of the bill agreed to the moratorium amendment when the author of the amendment agreed to vote for the amended bill. But that didn't deliver the margin. It needed seven votes to get out of the committee, and it only got six. I don't think it had twelve in the entire senate.

I was passionate on the subject then, as I still am, and I don't think the exercise had much to do with Caryl Chessman. There was nothing I said or heard in that long experience that had anything to do with him, except that the observation was made from time to time that his was the unusual case of facing the death penalty when he had not committed a homicide.

The abolition bills had been resoundingly defeated before that in the senate, and there was a very decided split in the customarily united liberal ranks of the Democratic party. [This was] one of the few issues in which I, and some others, did differ, where we had voted rather uniformly on the other issues in support of the Governor, or on the so-called "liberal" side of legislation. But that was not true of the death penalty vote, it was everyone for himself.

It was a difficult experience for me politically because I had some law enforcement people in my district, correctional officers, guards at San Quentin Prison, who lived in Sonoma County. They sent a very large delegation to remonstrate with me in Sacramento. That was a somewhat difficult experience, but I had stated how I would vote, and I had always known that that's how I would vote, and that's the way I voted.

Rowland: What was the lineup of third house advocacy on that issue?

Rattigan: On that issue, nil, as far as I know.

Rowland: Well, there was the Friends Committee on Legislation--

Rattigan: Yes, Coleman Blease. He testified in support of the bill.

Rowland: The Guntermans', too? They were a man and wife team.

Rattigan: I don't remember that name.

Rowland: There was an association of deputy district attorneys, too, that was in opposition to abolition--

Rattigan: That might have been the District Attorney's Association, which was represented at that time by Ed Meese, who later became the legal affairs officer for Ronald Reagan.

Rowland: He was also active?

Rattigan: In opposition to the bill and as a proponent of the death penalty.

On an issue like the death penalty, the third house doesn't contribute much, except information and support, because it's a polarized issue. You're either for it or against it. A specific third house movement might be able to terrorize a specific legislator, but by and large people are pretty well separated and committed on that issue. It's clean. It's a terrible issue, but it's clean. There are only two sides, and no shading.

Rowland: When the death penalty decision was made in the Judiciary Committee, the subject came up quite frequently in various sessions of the legislature. Moving as far ahead as 1966, for instance, there was a move by a large group of clergy, primarily in the Bay Area, to request that Pat Brown, who was by then a lame duck governor in December 1966, commute the sentences of sixty-four men on death row. Do you recall that movement? It got quite a bit of press.

Rattigan: Yes, I recall learning of the fact that such a request had been made. I heard little of nothing of his disposition of it, or how much he concerned himself with it. I have generally understood that consistent with his previous position he was opposed to the death penalty, but he did not feel it a proper exercise of his jurisdiction to repeal it on a case-by-case basis, so to speak.

That was the end of his time as governor and it was the end of my time as a state senator, and so I had little to do with it personally. I just learned of it at the time and I only now vaguely remember it.

Rowland: Going back again to the Chessman case, I'm curious about the role of Cecil Poole. Could you paint a picture of Cecil Poole and what he did? We knew he was the clemency secretary--

Rattigan: Right. He testified. I think he testified. If he didn't, he always spoke as one who had been for the death penalty when he was a prosecutor, but had changed his mind. Cecil is a very bright and effective spokesman.

Rattigan: Again, I don't think he influenced anybody because I don't think anybody influences anybody on that issue. It's just a matter of lending aid and comfort to the proponents of the bills.

Rowland: What about some of the legislative secretaries who worked for Brown? I think at that time it was Alexander Pope--

Rattigan: I don't recall whether Al was the first legislative secretary. Was he?

Rowland: I know Pope came before Mesplé.

Rattigan: Paul Ward, I think, held that post for a while. I got along very well with all of them. I'm much closer to Frank Mesplé than I was to any of the others. I don't know exactly why or how that came about, but we're still very close. I see him occasionally. I have not preserved that degree of friendship with any of the others, but the others and I were most cordially acquainted and friendly.

Governor Brown got the major part of his 1959 legislative program through. Most of it pertained to taxes. The most significant defeat he had was an assembly bill which would have established an agricultural labor relations board. That bill did not get out of the assembly. If it had, it would have been doomed in the senate. But he got pretty much everything else he wanted. I was voting with the administration most, if not all of the time, so I didn't have legislative secretaries camping on my doorstep all the time.

Rowland: Going back to the death penalty issue, did Paul Ward, for instance, testify before the committee on behalf of the governor, or did Pat Brown just remove all of his staff except for Cecil Poole?

Rattigan: I don't recall that the governor participated in the committee's deliberation in any way. In fact, I have no knowledge of the governor attempting to persuade anyone personally how to vote. If that happened, it would be very likely that I would not know about it, because no one ever needed to persuade me, so no one did. If there had been such activity, it could have happened without my knowledge.

Rowland: The Friends Committee on Legislation stated that the reason why they could not get an abolition bill passed by the senate was because of certain conservative Republicans. The Friends were looking at senate reapportionment as a possibility for removing the more conservative Republicans and conservative Democrats from the senate. Then the climate for passing an abolition of the death penalty would improve. They always focused on the Senate Judiciary Committee as the chief block to an abolition of the death penalty--

Rattigan: Well, it was a block, but a majority of that committee against the death penalty would not have improved the vote in the full senate. As I said before, in 1960, it had six votes in the committee, and I don't think it had twelve in the entire house. Maybe fifteen.

##

Fifteen votes in the 1960 senate would be an outside estimate of the number of votes for abolition of the death penalty, and I doubt that it was that many.

I agree in part with the Friends Committee's assessment of the situation. I disagree that the failure of the abolition bill in that year, or any year, was attributable to Republicans who were conservative, because I don't think it was, or ever became, a partisan issue as such. I agree with that assessment by reason of the fact that most of the conservative people were Republicans, and I think there's a difference. There were many liberal Democrats who supported the death penalty, and they are recorded on some of those votes. I don't think that a reapportioned senate would make all that much difference, because the major effect of the reapportionment fell against less heavily populated areas, and some of the votes for abolition were from those areas, and some weren't.

The fact that the abolition position was much stronger in 1978, I think, is attributable to the fact that the climate for abolition has been conditioned much more the other way, especially since there has been just the one execution in, I don't know, ten years.

Whenever it comes to a vote, this year or any year in the future, the people voting are going into the vote with knowledge that a majority of the public favors capital punishment in principle, which is to be distinguished from favoring it in actual practice. I conducted a personal survey after 1960, in a set of tragic circumstances which I don't have to describe because they aren't particularly important.

There was a young man from Sonoma County who was under the death sentence in Nevada, for a murder committed at Lake Tahoe. His parents, who were very nice people, were trying to muster public support in Sonoma County and wherever they could within California, in the hope that Governor Brown could be pursuaded to intercede, so to speak, with the commutation authorities in Nevada. In Nevada it is not the governor, but a three-person board, which has the final say.

I was the state senator for the parents, and they came to me first, I guess because I was a known opponent of the death penalty. I did what I could. I went up to Carson City and talked to the governor of Nevada myself.

Rattigan: They had all kinds of support from people who had previously been recorded as in favor of the death penalty. The symptom was unmistakable. People favor it in principle, as a tool for law enforcement and law and order, but if it becomes recognizable within their own circle of acquaintances they are immediately against it. It worked without fail that way. I think I counted eighty or ninety people who were for the death penalty, but who were supporting mercy for this young man. He was finally reprieved by the various court decisions throwing out the death penalty temporarily. He never will be executed. I guess he's still up there.

If there were enough such situations, where there was some personal association with an execution, the majority of people would not favor it. I'm confident of that. But it remains an abstraction. It's something that's done in San Quentin Prison, and there's a lot of morbid interest in it while it's going on, and then people put it out of their minds.

If it goes back into full force, which it now appears likely, the next hope for abolition will be public revulsion, due to a series of executions. An execution a month is more than the public can take, whether it knows it or not.

I have been in a couple of demonstration vigils over at San Quentin on execution nights. Those present consisted of people like myself, simply peacefully demonstrating, and perhaps a larger group of just morbidly curious people who had come in, some from great distances, just to hang around outside the walls and wait for someone to be executed. I emphasize the morbid side of it. I'm not sure that public revulsion to the point of abolition will ever occur in this state, but I do not consider it impossible. I think it might occur if suddenly all the executing states go back into the business of full time executing.

And of course history is on the side of abolition, and that's inexorable. The institution of a prison, as we know it, is only a couple of hundred years old. Back in olden days the principal penalties were not imprisonment, they were either execution, mutilation or banishment. Banishment is now out of the question and mutilation has produced revulsion. Instead of banishment, we have developed prison systems.

This country has always had prisons, but under the English common law which immediately preceded the founding of this country, the institution of the prison as we know it was very young. So I think history is on the side of abolition. And I think some day it will be abolished in this country, but I think that's a long way off.

Rowland: Turning to the subject of civil liberties, I'd like to ask you about the San Diego file controversy of 1962.

Rattigan: I have only the vaguest recollection of that happening, and no recollected knowledge of it, and I think that means that I had very little knowledge or awareness of it when it was going on, because I recall quite a bit from my time. I'm sure if I had been keenly aware of it when it was going on, I would recall it.

Rowland: There was a little bit about it in the Sacramento papers, and, of course, in the San Diego papers about that. I discovered it in the course of my research for my master's thesis on the Burns committee, when I explored the relationship between the San Diego file and the Burns Committee on Un-American Activities. Hugo Fisher had claimed that in the senate campaign of 1958 the San Diego file had been used against him.

Rattigan: San Diego file of?

Rowland: The San Diego file was once called the Van Dieman file. The Van Dieman file had been established by a retired army surgeon named Ralph Van Dieman, who developed his own spy network using some funds and equipment of the army. Out of his home in San Diego, he had developed a personal name index of 250,000 alleged Communists in the Western states. When Van Dieman died in 1952, three friends of his from the San Diego area, two colonels of the California National Guard and a San Diego businessman, took over his file of material--

Rattigan: What were their names?

Rowland: Alfred Loveland was the businessman, and I can't recall the other two. They established what they called the San Diego Research Library, which was nothing more than the file of material itself. They offered their files to the FBI, state and federal investigating agencies, and, of course, the Burns committee.

There was an article in the New York Times that stated that Earl Warren, Goodwin Knight, and Pat Brown had used the San Diego Research Library files to do background checks on appointees. When Mosk apparently heard about this in 1962, through Senator Fisher, he ordered the state to seize the files. Apparently he sent a state truck down late at night to gather the files of the San Diego Research Library and bring them back up. The three gentlemen threatened him with a law suit so Mosk gave them the files back. That was about the whole gist of the controversy.

Rattigan: I recall some of that, it's ringing some faint bells, but I still recall no more than you just told me. I'm a little surprised, retrospectively, because I was very close to Hugo Fisher. I still

Rattigan: am, we're still close friends, and we were very close as voting members of the senate, on the death penalty, among other things.

I recall a flap about seizure of some files, and I recall the name San Diego Research Library, but I still can't add anything.

The Burns Committee on Un-American Activities

Rowland: Well, I'm anxious to get your views on the Burns committee.

Rattigan: When I arrived in the senate I had no real awareness of the committee's existence.

Rowland: What was your working relationship with Hugh Burns as the pro tem of the senate?

Rattigan: It was very cordial, on a personal basis. I think we both regarded each other somewhat at arms' length as far as our philosophical positions were concerned, and I did tangle with him a few times on civil liberties subjects.

Rowland: On the death penalty?

Rattigan: No, not on the death penalty.

Rowland: Law enforcement?

Rattigan: No, I don't recall that either. There was a resolution in 1959 or 1960 with the title "Tractors for Castro." Eleanor Roosevelt was the national chairman of a committee which was collecting funds to donate agricultural equipment to Cuban farmers who were coming into possession and control of lands under the revolution. Some eager member of the legislature had either a concurrent resolution urging California support of this committee's efforts, or a joint resolution memorializing congress to help out. I don't think it was ever finally adopted.

Rowland: Was it Assemblyman MacMillan who introduced this?

Rattigan: No, I don't remember who introduced it. I remember that I was all for it. I'd been to Cuba under Batista, and Castro was not a conspicuously identified Marxist in 1959. The enterprise seemed like a good one, in the interests of the people who were supposed to benefit from the Castro revolution. I felt very strongly about the Batista system, which had been dis-established, and I supported the revolution. I remember some rather antagonistic debate between

Rattigan: myself and Senator Burns. But it did not affect our personal friendship, and in later years we were very friendly on a personal basis. He did me favors and was very nice to me.

Rowland: How did Hugh work the un-American activities committee?

Rattigan: The committee was invisible in Sacramento. I'm sure you know how the committee worked, which was in some mountain cabin somewhere.

Rowland: With Richard E. Combs--

Rattigan: Yes, yes, I met him once. I think I did, I don't remember the circumstances.

Rowland: How did you find him?

Rattigan: He was in Sacramento.

Rowland: I mean personally. Was he amiable, or gregarious?

Rattigan: Negative, negative impression. It was a fleeting thing. I formed no real impression of him, and it seems to me that when I met him I didn't know who he was.

The so-called Burns committee was established before Governor Brown or I took office, and it seems to me that it had been established before Senator Burns became president pro tem of the senate. He kept it as kind of a personal fiefdom. The reports, when they were read--and they were not widely read, certainly not within the legislature--were regarded as silly. I don't think anyone was sufficiently exercised by them to attempt to mount any effort to undo the committee, having in mind that Senator Burns was a formidable defender of the committee, being president pro tem of the senate, and being a man of great charm. In those days he was a man of great charm and humor and personality.

I did not read all of the reports of the committee. As I say, the committee was invisible, no one ever paid much attention to it. Someone, occasionally a constituent, would write some kind of a letter referring to a report, and I'd have to look up and see what they were talking about. Or sometimes people would ask for copies of a report, and I'd have to dig them up without really knowing where to go look for it.

That committee simply made little or no impression on me in those days, and the impression it did make was utterly distasteful. But it was something that occupied much of my time or attention. Looking back on it, I was very happy that it was abolished, and I wish that it had never existed, but it certainly never occurred to me to try to exterminate it.

Rowland: So even though you personally disliked the committee, and were always in support of civil liberties, and undoubtedly did not work that well with Hugh Burns in that arena, you maintained a good personal relationship with Hugh?

Rattigan: Yes, I did.

Rowland: He managed to conceal that possible friction?

Rattigan: Yes. He was a very able in-house senate leader, much in the way that Lyndon Johnson was reputed to have been, or Sam Rayburn. He went out of his way to perfect his personal relationship with lots of people, and he was able to do it on a very broad scale. I don't think that there was a single member of the senate that wasn't indebted to him in some way or another for political favors, other favors. And I came to enjoy his company. I was not an intimate of his, but at the social affairs that we shared I enjoyed his company.

He had been in the legislature a long time, he had lots of recollections, and he had a fine sense of humor. A number of us used to enjoy his talking about the old days when they were paid a hundred dollars a month, and were being supported by lobbyists, and so on. I don't mean him personally, but the old scandalous days when Artie Samish was in his prime. Senator Burns had a lot of memories which were interesting.

He was a very able senator, especially on the political side. Very able. It would be a great mistake for any antagonist of his to underestimate him.

I feel that in later years, after he was no longer president pro tem, he became embittered, and less likeable, perhaps less interested and less popular. This is only my impression, but I am not alone in it.

Rowland: Reapportionment pretty much broke up his empire in the senate, did it not?

Rattigan: To the extent that he had a hold, yes.

Rowland: Well, for instance, his basing the house on consensus rather than party decisions--

Rattigan: Well, I think the very decided emergence of partisanship helped to oust him. And also the simple fact, which is possibly a dimension of the same thing, that there were a lot more Republicans, starting in 1967, than there had been in my eight years. The Democrats were a very conspicuous majority in the early part of my

Rattigan: eight years, less so towards the end. But starting in 1967, there was a Republican governor, a lot more Republicans in the senate. Some of the Democrats who were left, or who reached the senate, were not of the liberal stripe that some of us had been. With this combination of circumstances, his structure began to totter, and it wasn't long before he was ousted by a Republican.

The ouster, Senator Way, was ousted by another Republican, because of third house support--Senator Schrade. And the way that finally shook down, also on partisan grounds, Jim Mills was elected and he's had it ever since.

I think politics, time, and change finally caught up with Hugh Burns, and I think he could see it coming. I don't think he was crushed by his defeat, I think he could see the handwriting on the wall. But I do think it began to embitter him. It's a difficult seat to lose.

Rowland: One of my big problems is trying to get a picture of how Hugh Burns worked with Committee Counsel Richard E. Combs on the Burns committee.

Rattigan: I know nothing of it. I don't know whether he ever went to visit Combs. I don't think Combs came to Sacramento much. Combs was regarded as a complete mystery man; many people had never seen him.

Rowland: There is a lot of speculation on the workings of the two, and also speculations on how the committee operated, and how Combs operated. Do you know anything?

Rattigan: I have the impression that the committee barely operated at all as a committee.

Rowland: In a sense Combs was the committee.

Rattigan: Yes. I think he wrote up a report, and it was circulated among the members, and they signed it, probably some of them without reading it. I do know, it seems to me, that Senator Stephen Teale was on it once, and would not sign something. Some of us applauded that without knowing much about it.

I guess I was regarded as too liberal to ever be considered for membership on the committee, and if it were suggested that I be on it, I guess I would have declined. But I say "I guess" because I might have felt the impulse to get on it and try to do a few things right. But I don't think the management was much interested in having dissenters about, so I'm probably just reconstructing that out of whole cloth.

Rowland: I think Senator Teale was the big dissenter on the committee.

Rattigan: Yes, I don't recall another one.

I think the last man on it from the Democratic side other than Senator Burns, in my time, was Senator Aaron Quick, and he disappeared with reapportionment. He ran for the senate, but was defeated by Senator Mills.

I recall virtually no controversy in the senate over the existence or the so-called product of that committee. As I say, it just went its way.

Rowland: Turning to the subject of education, which the Burns committee was involved in, do you recall the attacks by the Burns committee on the university?

Rattigan: Yes.

Rowland: What was your reaction?

Rattigan: Well, it was about the same as some of the other charges that the committee had made. I paid little attention to them, except that I completely and totally disagreed with that one. I thought it was just another fabricated product of the committee.

I knew Clark Kerr slightly and cordially. Of course, I had no knowledge, no real knowledge, of his own past, but I had the conventional due-process objections to this wholesale smearing under the banners of the senate committee, without anything in the nature of hearings or deliberate judgments. I think Clark Kerr always regarded me as a friend in the legislature, and he knew me better than I thought.

The reason that I say this is because by sheer accident I wound up sitting next to him on an airplane once, and he knew me and I didn't know him. At least I didn't recognize him. He introduced himself and we chatted for the entire airplane trip, which was a long one, as I recall. I forget where I was going. He had done his homework on me, all right, and it was a complete accident that we met.

Of course, Clark Kerr had plenty of critics, and the University of California has always had plenty of critics in the legislature. I was one who was critical of it, in many respects.

Rowland: Financially?

Rattigan: No, not financially. It was always critical of its size, its massive organization, its monopoly, and the warfare between it and the state college system. Also the sometimes arrogant autonomy of the University Board of Regents, as exercised by the board. I don't have anything specific in mind, I'm just speaking of critical factors generally.

Rattigan: And no chancellor of the university to my knowledge has ever been hugely popular with the legislature. So someone in Clark Kerr's position attacked by this committee was not in a position to be widely championed in the legislature. But once again, it was something that no one paid all that much attention to.

Supporting State Colleges and the University of California

Rowland: We were talking in the office about how you founded Sonoma State College. It would be quite interesting to get that story on tape.

Rattigan: Well, in the mid-1950s, various legislators and legislative factions started vying among themselves to establish state colleges in their districts. The legislature in those years established the state colleges. All of them were established by statute.

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By 1957 there had been at least a half-dozen bills by various senators and assemblymen proposing a state college in their respective districts, including the one I was to represent. Another one was the bill which was finally passed--and that one passed prior to 1958--establishing the state college in Stanislaus County.

Rowland: Who fathered that bill?

Rattigan: Senator Hugh Donnelly, I think.

Rowland: Was there an assemblyman, too? Ralph Brown?

Rattigan: Ralph Brown was the assemblyman, and I'm sure he was involved. That was passed before 1959.

Rowland: Was there a priority list of state colleges?

Rattigan: It was a matter of who could exercise the most muscle and agility.

Rowland: So it was kind of like a pork barrel?

Rattigan: Yes, correct. The bills regarding a college in the north Bay Area were so conflicting that none of them passed, and there was one compromise bill which decreed that the Public Works Board was to select a site for a state college in the area rather loosely defined as Marin, Sonoma, Napa, and Solano Counties.

That was effective law when I arrived in 1959. The Public Works Board referred the subject to its own staff people and to the state Department of Education to make recommendations concerning

Rattigan: a site, to locate and identify feasible sites, and to make recommendations. By late 1959 there had been about a dozen sites identified as property which was available. The staff people came out with a schedule of recommendations in which the present site was rated number one, and a couple of others nearby were rated close to it. One was near Santa Rosa, one was near Sonoma, one was in Petaluma. All of the most favored sites were in Sonoma County.

Rowland: Now there was a San Francisco State Center in Sonoma, was there not?

Rattigan: Yes, in Santa Rosa, a facility of San Francisco State College. It was functioning at a location in Santa Rosa, and the staff of that facility became the core staff for Sonoma State College when the site was selected in what is now, but was not then, the city of Rohnert Park. It was a couple of hundred acres of flat land in the Santa Rosa Plain, about halfway between Petaluma and Santa Rosa, and slightly closer to Santa Rosa. [It was] over the hill from Petaluma, and at the southern end of the Santa Rosa Plain, as it is called.

The Public Works Board toured those sites, deliberated, and finally selected the site where it is now located. There was a lot of politicking going on. I was in good favor with the members of the Public Works Board, and I was not at all surprised when a site in Sonoma County was selected. On the other hand, I had to be very careful not to champion one of those sites over another, so I didn't. In other words, I remained aggressively interested in the site being in Sonoma County, and confident that that would come about, but I had to be strictly neutral as to the competing sites within Sonoma County.

One day in early 1960, the Public Works Board actually toured about ten sites. They started in Vallejo--there was a site north of Vallejo near the Solano County Fairgrounds. There was another one in Napa, in what has since become John F. Kennedy Park outside the city of Napa. There were four or five in Sonoma County. There was at least one, perhaps two, in Marin. The board toured all those sites in a bus, with its staff, looked at them, remained noncommittal, and finally made its decision very late during the budget session of 1960 and its accompanying extraordinary sessions, one of which was called on the subject of higher education.

That session resulted in what is now known as the Dorothy M. Donohoe Act, which among other things, established the state college system in its present dimensions. Once that bill was on the way, in fact I think it had been fully enacted and perhaps signed by the governor, then the Public Works Board selected this site. So there had to be a bill to establish the college at that site to get

Rattigan: it under the umbrella of the Master Plan for Higher Education, which had been enacted. That was Miss Donohoe's bill. I managed to get a bill out of the senate and through the assembly in forty-eight hours, ending about 11:00 p.m. on the night the legislature adjourned. I got it through four committees and two floors in two days, with the help of friends such as Dorothy Donohoe. She convened a special meeting of her committee in the back of the assembly chamber to accomodate me. Jess Unruh, who was chairman of Assembly Ways and Means did the same thing, and I didn't have an assemblyman that night. He was retiring and he couldn't care less. He wasn't even present, so Jess carried it on the floor of the assembly for me, Jess Unruh.

That established Sonoma State College by law, and it was umbrellaed in with all of the other provisions of the Master Plan for Higher Education.

The college has had its ups and downs since then. The major support for a college in Sonoma County was chamber of commerce type support. "We want a college," just like they wanted the Air Force Academy and didn't get it when it went to Colorado Springs some years ago.

Rowland: Sonoma wanted an air force academy?

Rattigan: Yes. Virtually any county is interested in any such thing, especially the ones that don't already have one.

The chamber of commerce types immediately turned sour on the college because of what were charged to have been permissive attitudes of the administration, and hippies and Communists, so-charged. The relationship between the college and the local community was poor for years, some of it when I was still in the senate.

I was always a champion of the college. I admired and liked Doctor Ambrose Simpson, who was its first president. There have since been two or three others. I think the image of the college as a liberal and perhaps permissive institution has diminished, and the relations between the community and the college are now much better. I'm not prepared to say that that makes the college a better college--

Rowland: I had worked for a state college study, it's called the "Steady State Problem," and we analyzed San Francisco State and Sonoma State College--

Rattigan: Well, you know what I'm talking about--

Rowland: Sonoma State was called "Apple-Knocker Normal" and Stanislaus was "Turkey Tech"--

Rattigan: Right, right. I'm familiar with all of those derisive and other terms.

Rowland: One theory holds that the founding of Sonoma State and Stanislaus State angered some legislators and Jim Corley, who was the lobbyist for the university. Legislators were upset that a state college could be founded at the will and power of certain legislators, and that there wasn't any master plan governing the site selection and founding of the state colleges.

And, of course, Corley and the university were upset that the state colleges were being created faster than the university campuses were being created, and that the state college faculty might demand rights that the university felt it was entitled to, such as the Ph.D. and research. Were any of these points a factor in the push for the master plan in the legislature?

Rattigan: It came before Sonoma State. As I say, at about the time Stanislaus State was established by the legislature, a college in the north Bay Area was not established because they could not possibly agree on where to put it. So all of the conflicting bills were reconciled in one law, which said that there will be a state college--I'm not even sure it said that. It might have said that there will be a state college at a site in such-and-such counties, at a site to be selected by the Public Works Board. All my bill did was say, there is in the state college system, Sonoma State College, located in Sonoma County, at the site selected by the Public Works Board in 1960.

Their object was to pin it down by law, so that it could not be uprooted and disestablished and put somewhere else. I'm very familiar with the pulling and hauling between the state college system and the university that preceded and followed that situation.

Rowland: Would you expand on that a little bit?

Rattigan: Well, the university, reasonably but jealously preserving its post-graduate education prerogatives, its university status, has resisted any expansion of the state college system. The state college feeling, on the other hand, that they should be permitted in the areas of post-graduate education, and that their expansion should not be diminished. Territorial fights resulted.

Clark Kerr himself told me once that he had always hoped to establish a university campus in the San Joaquin Valley, and that he had been totally frustrated from that objective by various political factions, most of them centering around the fact and the identity of Fresno State.

Rattigan: I know that Jim Corley, who is also a friend of mine, and the university resisted all of these expansions and these special site selections, and so on, because they were against expansion of the state college system at the expense of the university. But there wasn't anything they could do to stop it, because it was done politically and there was an irresistible political movement by that time.

Rowland: So the university, then, was all in favor of the master plan, which would limit the expansion of the state college system?

Rattigan: To that extent, and in that respect, yes, yes.

I think, on the other hand, that the university resisted those features of the master plan which tended to bestow parity on the state college system, so to speak.

Rowland: Such as autonomy of its board of trustees?

Rattigan: Right.

Rowland: Or giving the state college the Ph.D. option?

Rattigan: Right. Incidentally, Sonoma State College is now about to be, if it isn't already, Sonoma State University. I'm not sure exactly what that means, except that it may bestow post-graduate degrees, although I think the subject matter area in which it can do that is limited. I don't know all that much about it, I'm out of touch with it.

Rowland: They decided to call it Sonoma State College?

Rattigan: No, they recently decided to call it Sonoma State University. I decided to call it Sonoma State College instead of North Bay State College, or whatever. I just hung Sonoma on it because there wasn't time to hold a contest to determine what to name it, and that was the name of the county.

It became an aberrant name when the trustees of the state college system entitled their state colleges as California State College, San Francisco, California State College, Hayward, and later California State University, San Francisco and California State University, Hayward [C.S.U.H.]. California State College at Sonoma imports that it is in or near the city of Sonoma, which just has to be confusing.

But, of course, I couldn't anticipate that, and I didn't have time to fool around. I had to get a bill through, and it took enough hustling to get one through in the period of time that I did.

Rowland: You mentioned Jim Corley. What was your working relationship with Jim Corley?

Rattigan: I didn't have much of a working relationship with him because his principal interest in the senate was with the Senate Committee on Finance, and I was not on that committee at any time.

I had a very cordial personal relationship with him. He was a nice man, and I went on a couple of fishing trips with him. I enjoyed his company.

I visited this campus [Berkeley] a few times when I was in the senate, including this library [The Bancroft Library], and it was he who set it up so it was painless for me to look at some of the things I wanted to look at, one of which was the Collected Works of Hubert Howe Bancroft. I was indebted to him for that. I regarded him as a fine man. I liked him and I mourned his final passing.

But I really didn't have a working relationship with him because my subject matter areas in the legislature were simply not his. I was on the Senate Committee on Education, but that committee has little to do with the university. It had a lot to do with the state colleges, and, of course, the junior colleges, secondary and elementary schools, but not the university.

Rowland: Were you aware of the feud that existed between Corley and Kerr in the university?

Rattigan: Yes, yes, I was. Now that you mention it, I was aware of it.

I don't know all that much about it, and the little I do know was hearing Jim Corley complain from time to time in generalities about the university and this and that. I never pressed him for details because it was apparently distressing to him, and I wasn't sure that I'd agree with him anyway.

As I say, I think he was a fine man, and I like him, but I don't think he was the most progressive higher educator that I have met. I imagine that he was very conservative, politically, philosophically, as well as fiscally. Clark Kerr had a number of antagonists, but I never knew much more about it than that, especially vis-a-vis Corley and Kerr.

Focus on Public School Teachers

Rowland: You talked about the Senate Education Committee and its handling not only of state colleges, but the junior colleges and the public education system. The public education system and its teacher

Rowland: training program came under scrutiny in Hugo Fisher's revamping of the credential program--

Rattigan: That has since been undone.

Rowland: Undone by Ryan--

Rattigan: Yes

Rowland: I think that was 1961. One theory holds that the Fisher Act was in part an attack on the CTA [California Teachers Association] lobby and the strength it had with the State Board of Education. Would you--

Rattigan: I don't think the so-called Fisher bill was mounted as an attack on the CTA lobby, but before it got through there was a very bitter power struggle between the proponents of the Fisher bill and the CTA lobby, and the CTA lost.

I was a very active proponent of the Fisher bill, partly because I was very close to him--I concede that--partly because I was somehow groping for whatever direction seemed to be plausibly in sight for improving the quality of public education. There were a lot of humorous episodes, including a lot of gross blunders by the California Teachers Association wherein they didn't help matters.

Rowland: What were those blunders?

Rattigan: Over-lobbying, for one thing.

Rowland: Lobbying with the assembly rather than the senate, for instance?

Rattigan: No, over-lobbying members through their constituents.

Rowland: We have a note in our office that Bob McKay was the lobbyist for CTA, and that McKay had a damn good working relationship with the assembly but had a less than amiable relationship with the senate.

Rattigan: That sounds accurate to me.

Rowland: --then replaced by Bill Barton because of problems--

Rattigan: Right. I've heard that, I've heard that's why Barton replaced him. I think that's an accurate assessment. McKay had less muscle in the senate than he did in the assembly. For one thing, he had Carlos Bee on his side in the assembly. Carlos Bee was the assemblyman from Hayward, and he was a leader in the assembly and a rather potent member. He was a member of the CTA himself,

Rattigan: being a teacher by profession, and I think he held a credential all the time he was in the legislature and up until his death.

Well, the over-lobbying--One thing the CTA did, for example, was they appointed a so-called "contact person" in every legislator's district. It was the duty of the contact person to keep in touch with the legislator. Well, to begin with, they didn't ask the legislator what he thought about whom the contact person might be, so some perfect stranger was appointed in my case, whom I didn't even know, and had no compatible background or anything else. Secondly, the contact man was told, for example, to contact the legislator at home, on weekends, which just made everybody mad. I had little stomach for getting a phone call on a Saturday night, to be lobbied for forty-five minutes on the telephone. I discouraged this guy to the point where he became less persistent. We were friends, but people like that couldn't tell me anything that I didn't know. My information, by and large, was better than theirs, and my information had been dredged from whatever source was available.

Rowland: From consultants?

Rattigan: Usually by myself. I burned a lot of midnight oil when I was in the legislature.

The information that my quote "contact man" end quote had was hand-assembled by the CTA. If there were another viewpoint, it was invisible.

Rowland: The party line--

Rattigan: A lot of legislators took offense at this contact man device. It would have been better if the legislator had been permitted to select a friend of his own as a CTA contact man. I certainly had lots of friends in the CTA.

I mentioned humorous episodes, and this is a true story. I gave the documentary materials to Senator Fisher in that year and he got quite a splash in the press with it. The San Joaquin Valley chapter of the California Business Teachers Association, a satellite group of people who teach shorthand, typing, and accounting, and so on--fine people--was told, in writing, to write to the members of the Senate Education Committee.

The members of the committee were getting hundreds of such letters from all over, but in the case of the San Joaquin Valley chapter, they attached in their bulletin to the members a specimen letter, Dear--with the name blank--and it had a specimen address on it, such as you and I might put in a specimen letter, 35006 University Avenue, Berkeley, knowing that it didn't exist. This address had been picked as one which did not exist.

Rattigan: I had no knowledge of this until I got about three or four letters, all with the same return address on them. They were all from Fresno. I ran a count on my letters, and I wound up with a whole bunch of letters with the same Fresno address, although some of the letters were from places like Visalia and Mariposa. I checked a map of the city of Fresno, and discovered that the address was fictitious. It was right in the middle of the railroad yards, and these people had just copied it parrot-like, under the assumption that they were to use the specimen address rather than inserting their own, which they should have done. I was amused by that, and I gave it to Senator Fisher, who used it as evidence that our public school faculties included some incompetent people. He got quite a splash out of it, as well as a big kick out of it.

I pursued it all the way to the source before I found out what they had done. I inquired in Fresno, through Senator Burns's office, I think, and I got a copy of the bulletin that the members had gotten. Sure enough, there was this fake address which a whole bunch of them used just blindly.

That was one. There were others, and it became a gross personality conflict between Fisher, on the one hand, and the CTA management on the other.

Rowland: Represented by McKay?

Rattigan: Yes, but not limited to McKay.

My only contribution to the Fisher bill was to preserve the subject matter area of mathematics, by being able to demonstrate to the point of conviction, if not ultimate truth, that mathematics was not a natural science, nor was it philosophy. And, of course, it wasn't a social science. I took the position that it was a separate subject matter area.

This was the part of the bill that required an academic subject major or minor in eight or ten categories. Mathematics was in there separately as a subject matter because I got it in there. In retrospect, that's a trivial thing, but I thought it was substantive at the time, and I went to a great deal of trouble to convince enough people--that's all you have to do in the legislature is convince enough people--that mathematics belonged in there separately. So it stayed in there, and the whole thing went out the window just a few years later under the Ryan Act. [laughter]

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Reorganizing Senate Committees

Rowland: There's something here that you may be able to expand on. In 1959, there was a reorganization of fact-finding committees in the senate. The number of committees were reduced to thirteen and arranged topically. Some of my previous interviewees indicated that the reorganization was due to an over-proliferation of fact-finding subcommittees that served in reality as fronts for a senator's district office.

Rattigan: So that every member could have an office in his own district--

Rowland: Yes, his own office and his own staff, which prior to this reorganization, was not allowed.

Also, Burns created the General Research Committee, composed of all forty members of the senate, of which Burns, as pro tem, was chairman. Under the General Research Committee other fact-finding committees could be created.

Now one thing that happened here is that the Un-American Activities Committee, which was a formal fact-finding committee, previous to this reorganization, now was deleted and was replaced by the Water Resources Committee, and Un-American Activities became a subcommittee of the General Research Committee.

Were you aware of this at the time?

Rattigan: Yes.

Rowland: Did people realize that he was trying to take his committee out from being the committee and putting it in further obscurity as a subcommittee of General Research--

Rattigan: It was not regarded as a matter of obscurity. This whole reorganization package was presented to the freshmen, of which I was one, as a fait accompli, with reasons stated for everything that was done, and no one went behind them.

Rowland: You mean with Hugh Burns over and saying, "You better vote for this, or--"

Rattigan: No, no, no. There was not the slightest hint of muscle flexing or intimidation, or anything like that. It was presented as a plausible package, and it was adopted as one.

Rowland: Without questions?

Rattigan: There were questions. I don't recall any pertaining to the Un-American Activities Committee. I don't recall any specific explanation that it became a subcommittee of the General Research Committee, but I recall him stating that it was special and had ongoing work in progress and he wanted to leave it that way, and I think he was simply indulged in it.

Rowland: In his Un-American Activities--

Rattigan: Yes, yes. But the question of how it fit into this new structure never came up at all.

The big reason it happened in 1959 was that by 1958 virtually every member had an office in his district, which the rules and the policies did not permit as such. No senator had a district office, as senator. So, he got himself a little subcommittee of something and had a subcommittee office with a secretary in the district, to function as his district office in practical--

Rowland: Did he acquire his own staff?

Rattigan: Yes, usually one person. Usually one underpaid secretary. This was a very penurious operation, but every senator wanted and needed a mail drop in his own district and a telephone. This widespread array of subcommittees was simply a subterfuge to permit local offices in the districts.

We started the 1959 session with at least a dozen new members, and that was a good time to change it.

Rowland: With all the Democrats?

Rattigan: With all the new members, not Democrats. Just new members. A lot of people had no vested interest in a district office. This was a good time to change the situation because it would adversely affect a minimum number of people.

Before another two years every senator was given a local district office. That was not a recantation of the 1959 organization plan, it was a logical development from it. Because we no longer had all these splinter subcommittees all over the map, it was proper to put in a legitimate, named district office, with a rental allowance, and a furniture allowance, and a secretary, and a telephone.

At the same time, every senator got an administrative assistant, which had been the other gimmick of the previous subcommittees. Senators without administrative assistants as senators had administrative assistants as chairmen of the various subcommittees.

Rattigan: My predecessor was chairman of a subcommittee on the Administrative Procedure Act. He wasn't a lawyer. He's a fine man, but I doubt that he had any familiarity with the Administrative Procedure Act, which is the field of lawyers and administrators. But he was chairman of the subcommittee. I don't know whether he had any members or not, but he had a little office in Santa Rosa, and for all practical purposes that was his office.

Well, two years later I surfaced with an office of my own, and a secretary of my own, and an administrative assistant, and it worked out very nicely. But the principal thrust of the 1959 reorganization was to put an end to this proliferation of committees and subcommittees, and it was done in 1959 because that was the right time to do it, because there were at least a dozen of us who didn't know any better, and didn't have anything to lose or to defend. By the time we had shown enough muscle to be heard from, we were given what we wanted.

Incidentally, the General Research Committee's functions, as such, were virtually nil. One valuable function that it performed was that, on occasion, members of the senate had the opportunity or the responsibility to travel at public expense. I'll come to an example in a minute. It could not be financed from the budget of any committee to which they were assigned, because the given committee would never have that much funds. So the senator would be appointed a one man subcommittee of the Committee on General Research, which would pick up the tab for the travel.

I was appointed to and attended the White House Conference on Aging in January 1961. I was appointed by Governor Brown as a delegate, with no state funds. So I went to Senator Burns and asked him if he had any idea about how I could get my travel expenses. I wanted to go, and if I couldn't get travel expenses I wasn't going to go. I wasn't going to go at my own expense, it was a week in Washington.

So, I simply became a subcommittee of the General Research Committee. This was all perfectly legitimate. The full senate budget, which had plenty of room in it, paid my travel expenses.

Rowland: Did they give you a subcommittee title?

Rattigan: Yes, there was a title.

But again, the Rules Committee appointed me a subcommittee for a period of a month, with the specific mission of attending that conference, and saying that the budget of the General Research Committee, or whatever, would be billed for the tab when I claimed it. And I filed a claim and I was paid. That's the only reason I was able to go to the conference.

Rattigan: There were other such instances involving other members. I only did it that one time.

Rowland: We have two big subjects here. One we might touch on lightly and then close it up for today, and get another interview perhaps---

Rattigan: What is this last subject you have in mind?

Rowland: Judicial reform.

Rattigan: We can get into that. Before I forget, excuse me, do you want to talk to me some more?

Rowland: Yes, I'd like to talk to you about reapportionment, which I know you--

Rattigan: Yes, and the Fair Housing Act. I might have more elaborate recollections of that than others.

Rowland: Is there anything else that I haven't covered in this topic that you think should be discussed? Your relationship with Pat Brown?

Rattigan: Well (and I'm not going to go into it now) the Rumford Fair Housing Act, was the one time that we, with myself heavily involved, took Hugh Burns head on and defeated him, on the floor of the senate, to his great chagrin. One reason I still regard him somewhat favorably is because he was very bitter about that defeat, and he was very vindictive as to some of the members, but not me. For some reason, not ever me, and I engineered the whole thing.

But I'm not going into that now because it would take too long. But we will do this again, I'm game.

Rowland: Good, definitely. Perhaps the bracero program, too?

Rattigan: Sure.

Rowland: Judicial reform seems to be something that you were particularly involved in. You were on the Judiciary Committee, and there was a Judicial Qualifications Commission which was established. Did you play a role in establishing that?

Rattigan: No. I remember voting on it, and I remember being informed of the need for it, but it was not a subject that was particularly new to me. I was aware of the need for it, and I supported the concept, and I had no problem with the mechanics. It has since been reorganized somewhat, and its name has been changed. That commission was not widely opposed, it was not a controversial subject. It seemed to be a pro bono publico objective; it was just a matter of how to do it. It did require a constitutional amendment, I remember that.

Rowland: There was also a revamping of judicial districts, too, under Pat Brown. He wanted to create more judicial districts, create more judgeships because of the expansion of population--

Rattigan: Well, creating more judges is one thing, and creating more judicial districts is another. The second is a misnomer because the county is the fundamental judicial district in California. Any thrust for expansion is not more judicial districts, which is to say more counties or more municipal court districts, any of which are smaller than counties, but more judges. More judges per court.

I don't think Pat Brown espoused the creation of more judgeships for any reason except that they were needed. There were political benefits involved to himself because it gave him some more appointments, but I discussed it with him many times, and I'm sure he wasn't empire building. I'm sure of it.

One of the biggest things that fell into his lap by way of judicial appointments was the final effective date of the seventy-year-old rule in the Judicial Retirement Act. It's the present law that is designed to discourage people from staying on the bench after age seventy. They may retire at sixty. They are not required to retire at seventy, but if they don't retire at seventy, they lose most of their retirement benefits. That law finally took effect in 1964, and all the judges over seventy, almost unanimously, all quit on the same day. And Governor Brown had vacancies all over the state.

Rowland: Another aspect of judicial reform which overlaps with the topic of the death penalty--and I think this was pushed by the Association of District Attorneys--was the limitation of the appeal procedure, which Stanley Mosk, as attorney general, supported. The argument of the district attorneys' association was that the appeal procedure forestalled the execution of those on death row.

Rattigan: I don't have any recollection of that as a member of the senate. I was very much involved in a similar movement and some specific legislation after I became a judge.

A movement was launched to make the right of appeal discretionary with the court of appeal, rather than an absolute right. I think the legislation passed one house and was killed in the other. There was too much opposition to it from the attorney general's office, among others. But that was Attorney General Lynch, not Mosk. I'm not sure that a proposal of that nature ever got off the ground in my time in the senate. If it did, I have no recollection of it, and I think I would recall it if it came before me.

Rowland: Another thing I'm interested in is the relationship between reapportionment and your appointment as judge by Pat Brown. That was done by Pat Brown?

Rattigan: Yes. The simplest way of describing that would be to describe this exchange. He hoped to be re-elected in 1966, and he hoped that I would run again in 1966 and be elected in the new district--

Rowland: Were you competing against Senator Randy Collier?

Rattigan: Yes, which did not terrorize me. But I regarded it as out of the question for me to stay in the senate representing a district of that size. I had no independent means of support, except my own law practice. My family was hurting economically, and all of the heavy family obligations all lay ahead--college for six children. I was interested in being a judge, always was.

I told him [Pat Brown] that there was no way I could run again. He wanted to appoint me to the bench, and I was very receptive to the idea. And as it turned out, there was a new court of appeal created, and I was as eligible for that as I was for the superior court, and I thought I would prefer it because my orientation is more in the direction of research and scholarship than it is in listening to evidence. And I had a lot of experience as a lawyer and as a legislator.

So it all fell into place. Mine was not a midnight appointment, like John Marshall. My appointment was announced in the summertime in 1966, way before the Brown vs. Reagan election. But it had to await the effective date of the law creating the new division of the court, which did not take effect under the old law until December. I was sworn in on that day.

Rowland: But it was affected by reapportionment?

Rattigan: My continuing tenure in the senate was affected by reapportionment because once reapportionment was enacted I decided that I could not and did not want to continue in the senate representing the new district. Assuming, of course, that I was re-elected.

The new district was one of the two largest in the state, territorially, and I had nothing in common with Del Norte County or Siskiou County. I think the district was pretty well mapped out for Senator Collier, actually.

Rowland: Did Collier approach you at any time, and say the race was going to be hard and you should look for another option by way of an appointment?

Rattigan: No. I know he expressed great gratification when it developed that I was going to be appointed to the bench, but we never discussed it. I didn't have that much in common with him. I never look back and say, "Well, I would have won this, etc." I think it likely--

Rowland: Did the appointment come as a surprise?

Rattigan: No, no. About the time I was making up my mind there was a superior court appointment in Sonoma County available right then, during 1966. It was made apparent to me immediately that I could have that appointment. Then I saw the court of appeal appointment coming, which looked preferable, so I waited to see if the position would be created. In fact, I was instrumental in creating it. But it was needed; statistically it was justified.

I did not start the movement. There was a bill moving to create a new division in Los Angeles, the Second District Court of Appeal. It was amended to add a division to the First. Once that was in sight as a reality, I put my sights on that, and Governor Brown kindly appointed me to it.

Rowland: What kind of working relationship did you have with Pat Brown?

Rattigan: Very good.

Rowland: Did you consider yourself a partisan Democrat?

Rattigan: Yes. But I let him alone, and he let me alone. I didn't like to bother him. I didn't like to give him headaches, especially petty things. A lot of legislators are running down there every day to demand this and ask for that, and I left him pretty much alone. His wife told me that once, and how much she appreciated it. [laughter]

On the other hand, we were close personally. I was very fond of him, and I still am. I'm aware of all his critics and all their criticisms, and some of them are well taken. Nobody's perfect and I'm very fond of him.

Rowland: Did you oversee quite a few of the judicial appointments he made?

Rattigan: I didn't oversee them. I was consulted. We had only one in my district, maybe two, the whole time. I was the only lawyer member of the senate in my immediate vicinity--that is, Marin, Sonoma, Napa, Solano, Mendocino. I had been in a busy practice with a busy firm which did a lot of court work in many other counties, and I knew my way around. So I was consulted, and I was able to put in a good word for some people, but it was never suggested to me that I had a veto, or anything like that. I was consulted.

Rowland: Did May Layne Bonnell come to you personally and ask for your opinion?

Rattigan: I don't recall her doing that in the case of judicial appointees.

Rowland: For other appointments, then?

Rattigan: Others, yes. Mostly business and professions type appointments, and a few big ones like the highway commission. Nothing specific. That is, I can't now refer to anything specific.

I wound up with a few constituents on state boards, of importance to them, not so much to me. And, I had a few angles on these regulatory boards because I was on the Senate Business and Professions Committee, which oversaw most of them.

But Pat Brown handled his judicial appointments very much on his own desk. That's my experience and my recollection. He would listen to people, but he did a lot of investigating on his own, including a lot that I'm sure I don't even know about. He was very sensitive to making good appointments, and most of the ones he made were first-rate. I say most of them. There may be some exceptions, which is a law of averages thing.

Rowland: Now Hugo Fisher and Jim Cobey were also appointed at the same time as you? Or was Fisher much earlier?

Rattigan: Fisher was earlier, yes, because he was no longer in the senate after 1962, he was director of the Resources Agency. Jim Cobey was appointed in the closing months of the Brown administration. He did run for re-election, and he was defeated by Howard Way, so he was then appointed to the court of appeal, as I had been. He had more credentials for the job than I did, because he'd been a lawyer longer, and he had actually clerked for the court of appeal once, which I hadn't. But he was appointed after Pat Brown and he were defeated in 1966, meaning in November or December of 1966.

Rowland: One question that is always floating around the office that we throw out to each interviewee: was there any change in the power and status of committees while you were in the senate?

Rattigan: The Finance Committee was always the most powerful in my time. I became chairman of the Local Government Committee, and the Local Government Committee became much more powerful than it had been. Incidentally, Stephen Teale was chairman of that committee before I was, and he anointed me as its chairman when he left it. It became a lot more important than it had been because the committee was very competent, and had the heaviest bill workload in the senate, except for maybe Finance. We developed a crackerjack committee, and stayed that way for years.

Rattigan: The Committee on Business and Professions was in decline in my tenure in the senate. So was the Senate Committee on Education. I think the respective chairmen were somewhat on the downgrade, due to age mostly.

The Water Resources Committee became much more important with the Burns-Porter Act and various other acts involving water resources. The Judiciary Committee was always important, and still is.

Rowland: Senator Mills felt that the Governmental Efficiency Committee and Finance Committee were the two most powerful committees.

Rattigan: That's right. GE [governmental efficiency] was the third house committee, that was the special interests committee. They got the bills that had to be killed, they got the bills that had to be pushed out. They got the Rumford fair housing bill. They got all kinds of bills that people had targeted for defeat, and they were a burial ground. It was a bad committee and I would never have any part of it.

Rowland: That committee, according to Alvin Sokolow, who's been studying the legislature, operated secretly.

Rattigan: Yes. It had a dinner meeting the night before they met as a committee. I carried one bill that went through that committee. That was in 1959, or '61 maybe. And I would never again introduce a bill that was going to that committee because I wouldn't have any part of it. I simply declined. Even for my own district, wanting bills, I wouldn't do it.

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Maneuvering the Fair Housing Bill Through the Senate

Rowland: At the end of our last interview you mentioned the fair housing battle that you had with the conservative leaders of the senate, particularly with Hugh Burns.*

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*For further references to the Rumford Fair Housing Act see interviews with C. L. Dellums, International Brotherhood of Sleeping Car Porters and Civil Rights Leader, 1973, and William Byron Rumford, Legislator for Fair Employment, Fair Housing, and Public Health, 1973, Regional Oral History Office, University of California, Berkeley.

Rattigan: Yes, that's mentioned indirectly in one of those news clips.

The heart of it lies in the strategy of the leadership that was against the bill, and the way they were out-maneuvered on the last day of the session.

Rowland: Would you give us an outline of what you had to do with that bill in the senate, the various routes it took before it came to that conclusion with Hugh Burns?

Rattigan: The bill was never before me until the last day. Incidentally, I don't remember the number of the bill. I thought I'd never forget it, but the Rumford fair housing bill will do. [AB1240]

It passed the assembly, and when it reached the senate, it was referred to the then GE committee [Committee on Governmental Efficiency] which was a graveyard of liberal, and other, legislation in those days. The committee sat on it for a long time, during which it was heavily amended. The members of the committees were beleaguered with supporters and opponents, and at one point there was a demonstration just outside, and partly in, the senate chamber. Some people who very much supported the bill undertook a sit-down demonstration at the main door of the senate chamber. I don't remember exactly--

Rowland: Do you recall that group?

Rattigan: No, I'm not sure they were ever identified as a group. My recollection is that there were twenty or thirty people, by my rough count at the time. They were mostly black, but not all black, and their demonstration was abortive. They were sitting down just at the door, and the sergeant-at-arms somehow pushed them outside and closed the doors, locked them, which substantially disposed of it.

As it was reconstructed to me later, the GE committee decided not to be labelled as the graveyard of this bill, and decided to put it out with the understanding that it would never come to a vote, by reason of the timing.

Rowland: Who were the principal leaders or decision makers in that committee?

Rattigan: Commencing with the chairman, Senator Luther Gibson. There were others, older men mostly, senior men.

Rowland: Democrats, Republicans?

Rattigan: Both parties. Gibson was a Democrat.

Rattigan: The committee was divided on the subject, but a substantial majority of it was understood to be against the bill but reluctant to bear the burden, or the reputation, of having killed it. So the strategy was to put it out at such time that the senate would never reach it. That strategy opened when during the last days of the then limited general session, the committee put the bill out with a recommendation, "Do pass as amended."

It went to Finance very quickly.

Rowland: Who was chairman of the Finance Committee? Was it Teale?

Rattigan: It might have been Teale at the time, acting because George Miller was ill. George was laid low for about the closing month, and I think that was the session. I think one of those news clips says something about that.

It went through the perfunctory step of second reading. This is my recollection that it went through the second reading before the last day. On the last day there were several hundred bills--

Rowland: The last day of the senate?

Rattigan: --of the session, with the session being constitutionally required to adjourn at midnight, with no stopping of the clock permitted. We were limited by the constitution to one hundred twenty days, which meant the Friday night of the twenty-fourth week.

There was, I suppose, according to its position on the daily file, technically a chance of reaching it before the end. But a couple of hundred of these bills were on the consent calender. Do you know what the consent calendar is?

Rowland: What is it?

Rattigan: The consent calendar is an accumulation of bills, mostly insignificant bills, to which there is no opposition. They are placed on the consent calendar, to the first bill of which there is one uncontested roll call, accumulating as many votes as possible, such as thirty, plus. Thereafter--not before the senate has recessed or adjourned, but after the members have all left--that roll call is applied to all the other items on the consent calendar, individually. This is a common device. It was used commonly in those days, and I suspect it still is.

Very early in the last day, which was an all day, all night, all evening affair, a member of the senate who was in on the strategy, Senator Bradley from San Jose--

Rowland: Do you recall his first name?

Rattigan: Clark Bradley, a Republican. He withdrew his consent to the consent calendar, which automatically eliminated it. This meant that every single bill on it had to go through third reading, and the roll call for final passage, that day, which made it utterly impossible to reach the Rumford fair housing bill before midnight. This was the strategy.

So Senator Edwin Regan, Trinity and Shasta Counties, and my seat mate (now a justice of the court of appeal in Sacramento), was for the Rumford fair housing bill. He was on the GE committee. We started putting our heads together, and we decided that he would move a special order of business for the hour of eleven p.m.

Senator Burns was furious. He got up and started to protest that every bill had to take its place in line, and that the senate just didn't make exceptions. I called a point of order, because a motion to set a special order of business is not debatable. The chair sustained the motion, sustained the point of order.

Rowland: The chair at this point was?

Rattigan: Glenn Anderson, the President of the Senate and the lieutenant governor, who made no mistakes in this sequence. He sustained the point of order and we showed three hands, including mine and Senator Regan's, which required a roll call vote on the motion to set a special order of business.

The motion carried by twenty-three, twenty-four votes, and we saw in them the votes to pass the bill. It was thereupon set as a special order of business.

When the hour of eleven arrived, the chair called the special order of business. By this time we had worked the floor, and we had a pretty good idea of where it was going to go. We allowed--well, perhaps that isn't the word--

Rowland: If I can inject a little question here. Was it at that point, the vote on the special order of business, that you knew the bill would pass?

Rattigan: As I recall, we had twenty-four or twenty-five votes for a special order of business, and we thought that among them there were twenty-one for the bill.

Rowland: Did you consult with these members individually?

Rattigan: Thereafter, I and others among us pinned down what we thought were at least twenty-one votes. We felt comfortable about it.

Rowland: We these primarily liberal Democrats, liberal to moderate Democrats? From northern California?

Rattigan: My recollection is that they were all Democrats. I wouldn't swear to that from memory, but in my recollection there was not a Republican vote for that bill, although there may have been one or two permitting the special order of business. Some people were indulgent of us, although they did not favor the bill.

At the hour of eleven p.m., the special order of business was called. Senator Regan very briefly presented the bill. By that time there was no dispute or misunderstanding as to what it did, and he didn't have to take much time to do it.

Senator Burns stood up and opposed the bill. We watched him very carefully on the clock, because it was conceivable that he would attempt to talk until midnight.

Rowland: Filibuster?

Rattigan: In a sense, yes. In this case we were ready to make whatever parliamentary moves were necessary to curtail his speech. Pending that, we heard him courteously.

He finally subsided. Then I made a couple of very brief remarks in support of the bill, primarily to alert everyone that this was it. Whereupon several other people, opponents of the bill, asked for the floor, but Senator Virgil O'Sullivan, who was primed for the occasion, moved the previous question. Three hands were shown again. There was a roll call on the motion for the previous question, which is also not debatable, and again we got twenty-plus votes.

The question was on final passage, the roll was called, and it got, as I recall, twenty-two votes. One to spare. That was it: senate passage.

It had to go back to the assembly for concurrence and senate amendments before midnight. Byron Rumford was waiting in the rear of the senate chamber. I'll never forget, I was very emotionally aroused by the occasion. This is one of those little side things that one remembers. I went back to him and we embraced, and I said, "Byron, I have just atoned for a Jim Crow boyhood." My wife was there. She was tearful. So was he. So was I.

He hustled the bill back to the assembly and got concurrence at quarter to twelve, it was so recorded, and it went to the governor. That was it.

Senator Burns was very angry, and he stood up after that on some parliamentary point or another, and took the occasion to--

Rowland: For an explanation of vote?

Rattigan: No, I don't know whether he was recognized for any particular purpose. His sole objective was to make a few savagely critical remarks of Senator Regan. He didn't say a word about me.

I think I told you before that I always got along with Senator Burns, and that was true on this occasion. He was very resentful of Senator Regan. That didn't take long, and Senator Regan didn't say anything, and neither did anyone else. Senator Burns just got it off his chest and that was it.

The old guard, so to speak, was out-maneuvered that night. None of this would have happened if the committee had not decided to fake it by putting the bill out with the understanding that it would never be reached. If they had simply sat on it, it would have died there.

Rowland: Going back to that GE committee, you said that the majority of the members probably opposed the bill, and there were a few members who might have been supportive of the bill. Do you recall the names of those who were in support?

Rattigan: Senator Regan, for one. Senator J. Eugene McAteer from San Francisco. It seems to me that Senator Stanley Arnold from Modoc-Lassen-Plumas Counties, who succeeded Butch Powers in the senate. I know he was for the bill, and it seems to me he was on the GE committee.

I cannot recall the membership of that committee with more precision than that. Senator Richard Dolwig of San Mateo County was on it, and as I recall, he was recorded against the bill.

It's important to note that a great many of the people on that committee who were against the bill, and who eventually voted against it on final passage, had put themselves out on a limb by assuring the proponents of the bill that they were doing their duty by putting it out, that they weren't killing it. But this was not the strategy. And the strategy became apparent when Senator Bradley yanked the rug out from under the consent calendar, making it a three-hundred roll call day, which is physically impossible.

As soon as he did it, we knew what he was doing, and it became an open secret. That was the strategy, and that's when we started talking about what we could do.

Rowland: You mean the strategy to pass the bill from the GE committee was a majority opinion of those who were opposed to the bill, to get it on the consent calendar?

Rattigan: No, not to get it on the consent calendar, to get it on third reading behind the consent calendar, and then wipe out the consent calendar so it would never be reached.

Rowland: This points out to me how Hugh Burns worked the senate, and the ways in which the personal relationships he had with the bipartisan "old guard" affected legislation. Besides just verbally attacking Senator Regan, did Senator Burns move some committee memberships around?

Rattigan: To my knowledge, he did not. And to my recollection, absolutely not.

Senator Burns was a very skillful player of the game, and he knew when he had lost. If he carried grudges from that experience, he didn't show it, and he certainly never showed it to me. I was named among those responsible for it, even principally responsible for it, and Senator Burns never said anything to me other than some kind of a joking remark about being a smart aleck, or something. But it was in all good humor.

The press, and various observers, dwelt on the incident because it was the first time something like that had happened in their memory--that the so-called old guard had been out-voted--that could have happened before, and I'm sure it did--but they'd been out-maneuvered. They would not have been out-maneuvered if they had just sat on the bill. It was when they undertook the pretext of putting it out on the last day, or putting it out under such timing that it would reach third reading on the last day, and then abolishing the consent calendar, removing it from any physically possible exposure to a roll call. They didn't give it enough thought.

Also, we weren't sure when we moved the special order of business that we had the votes to get it. But when we got them--well, then we had the special order, and we thought we had the votes for the bill, and as it turned out, we were right. By the time the special order was called late that night, we were virtually certain we had the votes for the bill.

Rowland: In the last tape we talked about the GE committee being a graveyard committee. Also, it's been recorded that the committee had night sessions, dinner meeting, in which they would discuss bills and plan their strategies.

Rattigan: They met in a hotel room the night before their regular meeting.

Rowland: Did they do the same with the Rumford bill?

Rattigan: I'm sure they did. I, of course, was not present, but I'm sure that it was on the agenda of more than one of their hotel room meetings.

They met in the hotel room of a lobbyist, and I don't remember who it was.

Rowland: Could it be the California Real Estate Association?

Rattigan: I don't think so, but I don't remember who it was.

That committee, because of its peculiar subject matter jurisdiction under the senate rules--and it was peculiar because it was so specialized. For example, alcoholic beverage, horse racing, judges' retirement (for some reason I never did know), a few other special subjects, all of which were in the rules.

Rowland; Had the rules been changed since Burns got in, or was this a standing unwritten rule--

Rattigan: My impression is that that rule, and the patently obvious special functions of that committee preceded Senator Burns's ascension to the presidency pro tem. I have the impression also that the various aspects of this specialized jurisdiction developed by accretion over the years.

Another subject of special jurisdiction was tidelands, in which many special interests, such as land developers, were passionately interested.

Rowland; And oil.

Rattigan: Right. And that committee was very carefully constituted, its members--

Rowland: Selected by?

Rattigan: The Senate Rules Committee.

Rowland: Senator Burns was the chairman?

Rattigan: Yes. And that committee had intimate associations with various lobbyists, who represented the specialized subject matter areas, which included, as I said, alcoholic beverage, including beer and wine, horse racing, tidelands, and a few other specialized subjects. Various bills were occasionally referred to the GE committee without technical compliance with the rules and without explanation, but for the obvious reason of killing the bill or doing something else to it.

Rattigan: Every vote on that committee was preordained when it met in public. They went through all the motions of hearing a bill, but virtually without exception, everyone on the committee knew exactly what was going to happen. And that's exactly what did happen.

I'm sure, although again, I wasn't present, and I witnessed none of this, that in the case of the Rumford fair housing bill, that at some night meeting, late in the game, a consensus developed among the committee members that the heat was on to get that bill out.

Rowland: From Governor Brown?

Rattigan: No, not in terms of heat. Everyone knew the governor was for it, but he didn't play any role in these proceedings.

The heat was from minorities and minority organizations, and such liberally-oriented organizations and lobbyists as the Friends Committee on Legislation and the American Civil Liberties Union, and others. And a lot of good, solid non-organized people who just thought it was the right thing, and high time.

It was strenuously opposed by the real estate interests, strenuously and totally. I suspect, without any knowledge, that when the bill went out, that their representatives were assured that it was going out, but no further.

Rowland: It was kind of a sop, then, to liberals?

Rattigan: Yes, and if the strategy had worked, no one would ever be able to prove that it had been preplanned. They could ascribe it to just one of those unhappy incidents of the closing week. Got caught in a log jam. It just happened that when we saw it sitting there on the floor subject to the log jam, we were able to put a device together to blow it out.

It was the most exciting moment of my entire eight years in the senate.

The Relationship of Lobbyist and Legislator

Rowland: You briefly talked about the role of lobbyists and the Friends Committee on Legislation. Exactly what kind of influence, advocacy, or even perhaps threats did certain special interest lobbyists use against the Rumford fair housing bill on the GE

Rowland: committee? For instance, did the real estate lobby threaten to finance an opponent's campaign?

Rattigan: No, I don't think it ever reached that point. I think they felt very comfortable with what they recognized to be a sympathetic majority of the committee. I don't think they ever had to threaten or cajole, or do anything other than just state an emphatic position. And, to emphasize it from a senator's district, to whatever extent was considered necessary, or just desirable.

I got a lot of coverage from my district, although I was not on the committee. I wasn't under any misapprehensions about what the real estate people in my district felt about it.

Rowland: Who was the lobbyist for the California Real Estate Association? Was it Dugald Gillies?

Rattigan: No, he was the executive secretary of the GE committee. He was responsible for its agenda, and its planning. Of course, he didn't have a vote, but he was the executive brain of the committee. No question about that.

He arrived at that committee when Senator Luther Gibson became its chairman, which was in 1959. Dug was just a legislative employee. I have no idea whether he was an active participant in this strategy that I'm talking about. If I had to guess, I'd say probably not, because although the committee relied on him heavily to do its bidding, it was its bidding that was done. The committee was not maneuvered by him in any way.

Rowland: I wasn't like that on the un-American committee. Combs practically ran the show.

Rattigan: Well, he was the show.

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The GE was a very active, very busy committee. It took a lot of time to be on it, and people on it took a lot of heat with these controversial bills. A conventional alcoholic beverage bill was likely to be controversial, for any number of reasons. Horse-racing bills were almost always controversial, because the big subject is not the regulation of the sport, or the business, but the allocation of racing days, and they are worth millions of dollars.

Rowland: This worked into the state fair board?

Rattigan: That's right. The conflict between the proprietary thoroughbred tracks and the county fair tracks, and between thoroughbreds and quarter horses, and thoroughbreds, quarter horses and harness. A racing day, or a racing night, is a big stake, with a lot of money involved.

Rowland: Who would you rate as the most powerful special interest lobbyist at the time of the Rumford bill?

Rattigan: James Garibaldi.

Rowland: Representing?

Rattigan: Representing race tracks, and substantial elements of alcoholic beverage--distilled spirit wholesalers.

Rowland: Was he also effective?

Rattigan: Totally effective. The principal reason for that is that he is an honorable and delightful person, as well as extremely bright and well-financed. I don't think I ever gave him a vote in my life, but he was, and is, one of my closest friends from those days. He represented, and represents, special interests of the most identifiable stripe, but he never did anything other than honorably and effectively. He made no enemies because of his delightful personality. He was, and still is, extremely popular.

He is the absolute best all-around lobbyist. The best because most lobbyists would be visibly uncomfortable representing some of those special interests. He never gave them that treatment. They were his clients, and he was loyal to them, and he had no apologies for any of them. On the other hand, he was completely and totally trustworthy.

Rowland: Trustworthy in what sense? Trustworthy in giving you the facts?

Rattigan: Giving you the facts. You knew where he was. He would not misrepresent something that he knew, nor would he conceal it. He dealt with everyone straight up. He dealt with everyone substantially the same. Well liked by everyone.

He was very generous in the days when legitimate generosity amounted to more than it does now. Food, drink, hospitality, campaign support.

Rowland: This was also in the era before Proposition 9.*

Rattigan: Yes, all of my time was before Proposition 9.

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*Proposition 9, as passed by the voters in 1974, limited lobbying practices and created the Fair Political Practices Commission to oversee and enforce lobbying regulations.

Rattigan: Of course, that very materially changed those aspects of the lobbying business, and it substantially reduced the effectiveness of a great many big lobbyists. This was all they had going for them--hospitality and generosity. It did not slow up Judge Garibaldi for one second, because he was hospitable and generous, but he didn't have to be. He had the brains and the talent and the character--that's the proper word for it--so that he is still just about as effective as he ever was.

Rowland: How did a lobbyist like Garibaldi operate? Would he, for instance, give testimony before committees?

Rattigan: To some extent, but not much.

Rowland: The image, of course, is the silent lobbyist, the Arthur Samish type lobbyist, who never testified, and never really walked the halls, but operated through other people. Then there are the visible lobbyists, who frequently testify at committees.

Rattigan: There were still a great many of the invisible types around in my day. Judge Garibaldi would testify on occasion, when the occasion called for it. He was a very bright lawyer, and a good talker. He was able to explain technical situations with great flair. But he didn't do that much.

On the other hand, he was highly visible at all times, and everyone knew what bills he was for and what bills he was against. He didn't have any secrets from anyone.

He and I became mutually aware, early in my time, that he didn't have much going that interested me, or vice versa. He never, in all those eight years, asked me to vote for anything. I think it was because we both recognized that I would not agree, and that neither one of us relished the prospect of my saying so. As I say, we were friends. We still are.

I did introduce a bill for him once, with the precise purpose of having it studied in the interim and with the understanding that it wasn't going anywhere. It was a very technically complicated insurance coverage bill--actually an insurance selling bill. I had some knowledge in the area, so that I was able to talk about it. I introduced the bill myself, and we had a couple of hearings on it, with the full understanding that it would be studied in the interim, and it was. I did not participate after that. Nothing ever came of it.

Rowland: One of our interviewees outlined that there were two types of lobbyists, those advocates who would work the senate and those who would work the assembly. The senate advocates would primarily try to squash legislation: status quo lobbying. The opposite would be the assembly lobbyists, who would try to initiate legislation. It was a rare single lobbyist who could work both houses.

Rattigan: I agree with all of that, generally, except for the observation that lobbyists who work both houses were rare. According to my recollection, many well-known and effective lobbyists worked both houses. This is particularly true of lobbyists who could not be identified with what we call special interests, such as horse racing, but lobbyists with more publicly-oriented interests. A lot of them were tax supported lobbyists, such as schools, school administrators, school teachers.

Rowland: The California Teachers Association [CTA] was a very effective and powerful lobby group?

Rattigan: Yes, very much so.

Rowland: Who represented the CTA? Bob McKay?

Rattigan: Yes, right.

Rowland: Would you rank him as second under Garibaldi?

Rattigan: No, I wouldn't rank him that high. I don't mean to diminish his reputation, it's just that I personally never had that much to do with him.

His power lay in his organization, which involved votes and campaign support. His organization was by no means a one-issue organization. It was very diversified, so that he couldn't deliver the organization in a package as to any one senator or assemblyman. The senator or the assemblyman might have the elementary school teachers mad at him, but not the secondary. The school teachers might disapprove of his attempts to regulate school teaching, but be very appreciative of his efforts to get them enough money.

These very diversified organizations, being much larger and more diversified, are not as disciplined as the true special interests, which are themselves almost invisible. I met very few distillers of liquor. A few, perhaps. I met very few officials of race tracks.

Rowland: How would you rate race tracks as a powerful and effective lobbying group?

Rattigan: Very powerful and very effective, but with a relatively limited field of interest. They could function through an entire legislative session without visibly crossing paths with more than a handful of people. Generally speaking, people with many more irons in the fire would necessarily cross paths with a great many more members of the legislature--such as the teachers.

Rattigan: The race tracks are an example of a single interest, special interest who are very much interested in a very small number of bills, either for or against. And that's the extent of their interest. It's not the extent of their effort or their expenditures, but they are not at all interested in the garden variety of bills, or in more than a handful.

Rowland: It has been suggested that some lobbyists would frequently work with a secretary of a senator or assemblyman and be able to work up a good relationship with her, to pass notes on to the senator and to develop a more personal relationship with the senator.

Rattigan: A great many lobbyists commonly did that.

Rowland: Worked through the secretary?

Rattigan: Yes, it was very helpful to have an incorruptible secretary. That was certainly my good fortune. She was hospitable and courteous, and very well treated by all, but everyone knew that she was invulnerable to the blandishments of any, so there was no harm done.

She might have had personal relationships with people which made me more accessible to them. If that were true, I would be completely indifferent to it, because the chances are that anyone she thought well of, I would think well of.

That still goes on, I am told, especially at whatever level of personnel the Proposition 9 restrictions don't apply to. Last time I was over in Sacramento I took a couple of ladies to lunch, my former secretary and another senator's secretary--old friends of mine from back in those days. They are both administrative assistants now, and they told me, to my surprise, that they have to report and be reported. I had not known that. There is a level somewhere below that, some stenographic or other level--

Rowland: This comes under Proposition 9?

Rattigan: Yes, under the Fair Political Practices Act.

Now, of course, the more important feature of that is not what they say in their reports [to the Fair Political Practices Commission], but what other people say about them in their reports. A conventional lobbyist has to report every nickel he spends. I'm subject to the act. I don't have to report every nickel that I receive, I have to report everything worth more than twenty-five dollars in a month. I think that's it. I don't have any problems any more with such details.

Rowland: Getting back to lobbyists--There seems to be, even today, two types of lobbyists. There is the personable lobbyist; I have the impression that Jim Corley was that type of personable lobbyist. The

Rowland: other is the technocrat, the technician lobbyist, who comes with the chalkboard and the "show and tell," and will give you all the facts and figures, and be less personable, and more factual. Did you see that?

Rattigan: Yes.

Rowland: Did you see any changes in your years in the senate, especially with the approaching reapportionment of the senate? Did you see more technician lobbyists coming into the legislature?

Rattigan: I think I saw an increase in their numbers, as distinguished from a changeover of technique, one person moving from one category into another. I think I just saw more and more technician lobbyists turning up.

I know that in my later years there, I crossed paths with more of them, as I became more and more involved in technical subjects. And I did become deeply involved in a number of technical subjects, some of them almost esoteric, but of importance to my district, such as the Milk Stabilization and Marketing Act. Or other subjects of importance to me, such as public school finance, for which I had some kind of affinity. I became immersed in it, and I became fairly expert at it myself.

Both experiences were the result of intense technical exposure, with experts being brought to me, just to tell me what they knew. I mean experts who weren't even lobbyists, but who were brought to me by lobbyists. Economists, for example.

Rowland: There also seems to be, perhaps, a fluid relationship between consultants and lobbyists where consultants become lobbyists. I guess Gillies is an example of that. He was involved with the GE Committee and then became a lobbyist.

Rattigan: Yes. I'm sure that what happened to him was that Senator Gibson did not run after reapportionment, so Dugald Gillies either had to find another job with the legislature, or take whatever offers were available to him. And I'm sure he had top offers available to him, notably the California Real Estate Association, because he is a top man. He's reputed to this day to be one of the smartest lobbyists, and I don't doubt that for a minute.

He and I are very cordial, and I'm sure he would confirm that if he were present. We don't have the intimate relationship that I had with Judge Garibaldi, on a person to person basis. On the other hand, I was always removed from Garibaldi's area. I was not involved in it, whereas a lot of matters of concern to Dug Gillies in his day and mine did involve me. This was partly because of

Rattigan: the broad variety of subject matters that the GE Committee had, and also because we represented neighboring districts. We had several things geographically in common.

Rowland: Turning back to Senator Burns. How accessible was Senator Burns to the special interests? Being pro tem of the senate, of course, he would be a candidate.

Rattigan: I think he was accessible to them. For example, he and Judge Garibaldi were old, close personal friends because they served in the assembly together back in the 1930s. I never saw that friendship apparently exploited or abused in any way. I've often thought that my friendship with Judge Garibaldi was partly responsible for the cordial relationship between Senator Burns and myself. They were good friends, and I was good friends with Judge Garibaldi. I'm not sure how important that really was, but that's my impression.

Rowland: During campaigns, would lobbyists frequently come forth with campaign contributions?

Rattigan: Yes, usually unsolicited, sudden, and in some cases, unacceptable, to me. I sent a lot of unsolicited contributions back, for several reasons.

Some, it was self-righteous reasons because these were people whose support I didn't want because I didn't approve of them. Others for tactical reasons, because the contribution was exorbitant and I didn't like its looks.

Rowland: Do you recall any specific organizations that you had received contributions from that you returned?

Rattigan: Yes, the Public Health League--doctors, dentists.

Rowland: Basically the CMA [California Medical Association]?

Rattigan: That's right. The Public Health League is a super-organization to which members of the CMA and others of the healing arts professions belong. Now this is the way it used to be. It seems to me that it doesn't exist anymore.

But they sent me a big chunk of money when I ran for re-election and I sent it back. I didn't have any doctors supporting me, to speak of, other than a few friends. They thought I was a winner, and so they came in heavy, and I just don't approve of that.

Rowland: Any oil company contributions?

Rattigan: I don't remember any. I know that Standard Oil of California, and a few others, who were represented by the same lobbyist, Al Shults, for some reason never gave me any money. I was sometimes curious about that, because I had a cordial personal relationship with him, and they were very generous with campaign money with a lot of people.

Rowland: Al Shults,was also a very good friend, a boyhood friend, of George Miller.

Rattigan: Yes, yes. And a huge stakeholder in his district, Contra Costa County. A huge property taxpayer, which I guess put George on a tightrope some of the time. But he was infinitely graceful on the tightrope, or anywhere else. He handled himself skillfully and honorably.

Rowland: Turning to reapportionment now, unless you feel that there is something major that you want to say about the Rumford Fair Housing Act--

Rattigan: Well, only the closing irony that after that spectacular stunt of getting the bill out and into law, the people repudiated it two to one in the referendum. The supreme court finally threw the referendum out, and there has been no harm done. Everything worked for the best.

Rowland: That's an interesting point, because some legislators and Democrats have said that it was a mistake for Pat Brown to get involved in the Rumford Fair Housing Act, knowing that the people of California were against it. That it would be an albatross around his neck when he ran in 1966. They said that the Rumford Act could have been incorporated in the Fair Employment Practices Act, rather than a separate act--

Rattigan: I don't know whether I agree with that or not.

In retrospect, I don't see how Pat Brown could have been elected in 1966, regardless. He supported it, and he signed it, but he didn't push it hard, and really was not in a position to claim much credit for it. The only onus that fell upon him would be signing it, and simply signing a bill, and expressing approval of it, just doesn't have the adverse consequences that actively lobbying for it and pushing it does.

I don't think the referendum symbolized anything. Of course, I didn't have to run again in the wake of it, so I'm just theorizing. I don't think it was all that important, not to Pat Brown.

Rowland: Did he feel he had to make an ideological shift in the '66 campaign, that he might want to amend the Fair Housing Act after the people--

Rattigan: I don't think so. I don't know this, but he might have muted his position somewhat in '66, running against an attractive conservative opponent who was flailing him for his participation. He might have muted it, explained it, but Pat Brown and his political management just didn't think Ronald Reagan could beat him. Everybody learned a lesson from that.

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III LOOKING BACK ON SENATE REAPPORTIONMENT

The Third House Against Reapportionment

Rowland: To turn to reapportionment, we were talking about the oil advocates in Contra Costa County. We have a note in our office that George Miller, Jr. was pressured by oil interests to do all he could to defeat reapportionment. And the oil interests poured lots of money into the anti-reapportionment battle.

Rattigan: Are you sure that's true?

Rowland: It would seem to me--

Rattigan: A great many special interests spent a lot of money abortively trying to defeat the state legislative reapportionment.

Rowland: Now we're talking about the oil companies campaigning to defeat the Bonelli reapportionment initiatives of 1960 and 1962. They were two initiatives from southern California--

Rattigan: And the special interests spent a lot of money, in the conventional way, financing campaigns against reapportionment.

The first such campaign, in my experience, was in 1948. I forget who sponsored that. Then there were two more, both initiatives by Frank Bonelli.* The same interests spent lots of money successfully attempting to defeat all three.

I don't think they were gulling the public with lots of money. I have always thought that the public did not want the result that finally happened.

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*Written by Los Angeles County Supervisor Frank Bonelli, the 1960 and 1962 respportionment initiatives attempted to radically redistrict the California senate, giving greater representation to southern California and Los Angeles County.

Rowland: What did the oil interests, or any lobbyists, have to lose with reapportionment?

Rattigan: Control and influence in little, insignificant districts which didn't affect them at all, but where they had nurtured and developed and sponsored a friendly vote. My first years in the senate especially, this was true. A lot of older men, representing outlying, predominantly rural districts, who became voices for Standard Oil and other special interests which had absolutely nothing to do with their districts.

In varying degrees, these men were judiciously scattered among significant committees, with the solicitation and inspiration of the same special interests. All of them had much to gain and nothing to lose.

Rowland: So we are primarily talking about the senate, and lobbyists who worked in the senate. Do you see the senate as the most accessible?

Rattigan: Sure, partly because it was smaller, and partly because, again, so many of its districts were small and thinly populated. Let me reverse that. Relatively few of its districts were urban and heavily populated, relatively. A great many assembly districts were urban and heavily populated.

The influence and the opportunity to split out and nourish and develop a friendly vote in that kind of district is simply more difficult and more expensive to do. For example, in my time, when Senator Richards, and then Senator Rees, represented the county of Los Angeles, I think there were twenty-seven or twenty-eight assemblymen from the same county. Obviously, it's easier to develop a dozen or more in the senate, which would be necessary to counterbalance it.

I ran against an incumbent, a conservative gentleman quite a bit older than I. He was vigorously supported by special interests, with which he had no visible relationship, except that he was a conservative vote, and he was conservative in matters important to them, such as taxes, social legislation, the regulation of labor. He was a friendly vote. He was a very fine and honorable man, but this was just his bent. He was also incorruptible as far as hospitable lobbyists were concerned, but they didn't need to corrupt him. He belonged on their side of the fence, so they had a stake in his re-election.

He had counterparts all over the place. Senator Fisher, who came up when I did, defeated an incumbent like that. So did Senator O'Sullivan. A couple of others of that stripe survived by the skin of their teeth, with very narrow margins. It was the closest call they ever had.

Rattigan: But reapportionment came about by judicial decision, and I don't think it ever would have happened if it had been up to popular vote. I don't think that was absolutely dependent on special interest money. I think that, by and large, the majority of people were always willing to accept the geographic versus popular constituency of the legislature at the state level.

I also think, in retrospect, that my own vehement attitudes in opposition to reapportionment were substantially self-serving. They were not spurious, but motivated. Looking back at it more objectively, I am sure that what happened is not at all as bad as I predicted it would be. Some districts are more difficult to represent because they are so much bigger geographically, and that precise feature is the principal reason I decided not to run.

If I had been elected, I was disinterested in attempting to represent a district 400 miles long. I represented my own district rather vigorously in terms of keeping in touch with it, and visiting places in it. I'm told by many people who succeeded to big districts that it was a lot easier being a senator than it had been, because you could be remote and it was excusable. You didn't feel obligated to show up at a parade some place in your district, simply because it was too far away, and people understood that. So maybe I miscalculated how much more difficult it would be.

I used to go to school board meetings and things like that, and I just couldn't give a 400 mile district the coverage that I gave the old one, and I wasn't interested in trying. There were other reasons, but that was a major one.

On the Governor's Blue Ribbon Commission

Rowland: You were appointed to Governor Brown's Blue Ribbon Commission on Reapportionment, the Wellman commission, in 1963. Did that commission really seriously make an attempt to settle the reapportionment controversy?

Rattigan: Yes, it seriously undertook to settle it by recommending a compromise, which would have been substantially limited to increasing the representation of Los Angeles County, where all the flak was coming from.

It's operations were dead serious. Charlie Wellman is one of the brightest and most attractive people that I've ever been associated with. He was dead serious. We had very busy hearings

Rattigan: all over the state. I can still remember driving from Santa Rosa to Chico, from Santa Rosa to Redding, from Santa Rosa to-- Not driving to all these places either, but flying to various other places. We hustled, we hustled.

The committee had no well-paid staff. All the work was done by the members, including the report which was written, and to which I appended a concurring opinion. In it I undertook to defuse the movement, at the same time going along with the recommendation. The senate at large understood what I was doing, and approved of it.

Rowland: One theory holds that the creation of a governor's blue ribbon committee to investigate senate reapportionment was looked disfavorably upon by the state senate as the governor's office intruding in legislative areas. This caused some amount of tension between the upper house and the governor's office.

Rattigan: I think that's probably true. It's possibly one reason I became the senate member of the commission, because I was acceptable to the leadership of the senate as well as to the administration. I certainly wasn't the only person that could be so identified, but I happened to be the person that was.

Rowland: Did senate members consult with you on what kind of position you would take?

Rattigan: No. Senator Burns, Senator Miller, and one or two senior older members of the senate waited upon me one day, and asked me how I would feel about being designated. I said, "Fine," and that's all there was to it. No one attached any strings of any kind.

As I say, I went along with the compromise proposal, which was not a heavy one. I went along with it, and as far as I have ever known, that action was approved of by the senate, because it was accepted for what it was intended to be--an attempt to relieve the pressure in the interests of compromise.

If I had it to do over again, with the more fixed convictions I have now about the unacceptability of substantial reapportionment to the public, I don't know whether I would do it again. When I'm talking about it being unacceptable, I'm talking about the wholesale plan which finally materialized as a result of judicial decision.

The likelihood of a Bonelli initiative loomed greater because of the smoke and flame that could be blown for it in Los Angeles County alone. We were then talking about a single county in which something like forty or forty-five per cent of the state's vote was, and where Frank Bonelli was a very skillful evangelist--

Rattigan: and lots of discriminatory treatment of Los Angeles County reflecting years of compromise and consensus.

Los Angeles County wanted more representatives, and people in the north didn't want Los Angeles County to have more. There's nothing dishonorable about wanting more, that's pretty much the nature of the human condition in politics, anyway. Everybody wants more. That's what Samuel Gompers said about his troops in organized labor. When asked what they wanted, his answer was, "More," which said it all.

A great many of us thought that there was a distinct likelihood that a Bonelli initiative might pass, and I think Frank Bonelli apprehended that, too. The only question was how and when it might be done.

The 1948 initiative, which I remember, drew its own map, and it was palpably brutal and unfair, and it failed miserably. Frank Bonelli's first initiative was less so.

Rowland: The initiative that would have divided senate members by a twenty north and twenty south distribution?

Rattigan: Yes.

So it went. All of us pretty much shared the view that it was a matter of time before Frank Bonelli, or someone like him, would be able to pull it off. None of us anticipated what finally happened.

The Warren Court Decision: Aftershocks in Sacramento

Rowland: When the decision came from the U.S. Supreme Court ordering state legislative reapportionment by population, the "one man-one vote" decision, what was the reaction of those older senators who remembered Earl Warren?

Rattigan: Very bitter, as far as Earl Warren was concerned, very bitter.

The anti-Warren reaction was very visible among people that never got along with him anyway, including a lot of Republicans who thought he was too liberal. There were still a lot of them in the senate in my time, and a few in the assembly.

But there was a very widespread feeling of bitterness and personal hostility. You know, "We, the legislature always got along with him. Why did he do that to us?," which is a very narrow view. It was not one in which I shared, because I never had any experience with him.

Rattigan: If I had known more about the history of the judicial area of reapportionment, I would have predicted what finally happened. What finally did happen caught me napping.

Rowland: The decision, you mean?

Rattigan: Yes, yes.

Actually, it had a long background, and I was unfamiliar with it. I was also less familiar with the way courts work, especially supreme courts, than I am now. So, if I had known then what I know now, I would have anticipated what happened, if not that year, in another year. When you get down to one or two shifting seats in a court, anything is up for grabs.

Rowland: With that one man-one vote decision, there was quite a bit of maneuvering, as Senator Burns, Senator Teale, and Frank Mesplé recalled. Emmissaries from the state senate travelled around the country, speaking with other state groups--

Rattigan: Yes.

Rowland: Travelling to Washington to lobby for the [Federal] Dirksen amendment--

Rattigan: I was sent to Washington to speak for the Dirksen amendment. I was commissioned by the senate to go make the pitch.

Rowland: This was a senate-organized group, it wasn't just a group of senators who part-time--?

Rattigan: No, the senate. I was sent on official business. I was picked and two people were picked to go with me. And we went.

Rowland: At this time you felt it was still possible to change the Supreme Court decision through a federal constitutional amendment?

Rattigan: I'm not sure that I ever thought it was possible, but I was certainly willing to try. It was the only game in town.

Rowland: Who accompanied you on that trip?

Rattigan: Senator O'Sullivan and Senator Rees.

Rowland: Tom Rees from Los Angeles?

Rattigan: Yes, and Senator Burns went with us. He didn't show up on the occasion when I made a presentation to a Senate subcommittee, but he was along.

Rattigan: Several major California lobbyists turned up in Washington at the same time.

Rowland: Did the lobbyists freely give their resources and their money to support the senate campaign?

Rattigan: I think some of the travel to other states was at the expense of lobbyists.

Rowland: I understand that it was the senate leadership whipping up the special interests, almost twisting their arms, that drove money into this anti-reapportionment campaign.

Rattigan: I don't question that. I had no participation in it myself, but it sounds plausible. Now that I think of it, I do know of one example.

Senator George Miller and I went to Oregon and made a presentation to a committee of the Oregon House of Representatives. This was a one-day trip. We paid our way, but two lobbyists for Standard Oil went with us. The Oregon lobbyist for Standard Oil--his place was our headquarters for the brief period of time we were there. We had lunch at his place. We came home that night.

That was the day I met Governor Mark Hatfield, who said hello to us because we were visiting from California. George Miller and I made the presentation. The Speaker of the Oregon House of Representatives, who was receptive, is now Senator Packwood. I met him, too. He was the Speaker of the Oregon House and he was on our side, or at least what we conceived to be our side.

Rowland: Al Shults went with you?

Rattigan: Al Shults went with us, yes. He paid his way, and we paid ours. Now that's my best recollection.

I remember it was a one-day affair, and just a terrible day because we couldn't fly back to Sacramento. We had to get back because of business of our session, but we had to fly to San Francisco and then drive to Sacramento at one o'clock in the morning, or something. It was a long, difficult day.

We were received with great coolness by the Oregon committee, too, so it was unfruitful.

Rowland: Now there was a commission or a committee the senate set up to study how the state senate had supported urban legislation throughout its history, since it reapportioned itself to represent

Rowland: counties rather than population. Do you recall the name of that committee? Senator Teale tried to recall it, and I've been trying to find the document itself.

Rattigan: Are you sure it was a senate committee, or was it a self-starting group of interested lobbyists?

Rowland: It could have been. Senator Teale recalled that it was a senate special committee that was doing a study on how the county-apportioned state senate had always supported urban centers.

Rattigan: I don't remember a senate committee doing that.

I do recall a group of more public-spirited lobbyists, not special interest types, but lobbyists such as Los Angeles County, for one. Also the League of California Cities. People who--

Rowland: This would be inverse, then--

Rattigan: No, no. The official representatives of interested people--people to be vitally affected by reapportionment--were by no means in support of it, because they appreciated what they had. It was for that reason that some of them went to some lengths to develop the record on how what they wanted had always been made available to them by the allegedly rural-dominated senate.

Some of this, which involves most of the work I did myself, is in the minority report that I wrote for the blue ribbon commission report. Have you ever seen that?

Rowland: No, I haven't.

Rattigan: Maybe I can dig up a copy of it, if I still have one. It was a printed senate document, in which I wrote a very long, running comment. I'll send you one if I can find one.

But that was mostly work that I did myself, and there wasn't a great deal by way of historical review. This is all dimly in my mind, but some of these people [lobbyists] ran down some statistics. A lot of it blossomed after reapportionment had become an accomplished fact.

When Tom Rees had left the senate to go to the congress, I carried all the bills for Los Angeles County. A lot of the press and other observers found a great irony in that. I was taken down to Los Angeles and feted by the board of supervisors. [laughter]

Rowland: When did Rees run for congress?

Rattigan: In 1965. He didn't abandon his constituents in Los Angeles. I was a close friend of some of them, and I helped out after he'd gone. For example, smog control and air pollution was a flaming issue because it had become politically volatile in the Brown re-election campaign. Somebody was killing all the smog bills. I introduced--

Rowland: Who replaced Tom Rees as senator?

Rattigan: Nobody.

Rowland: For the remainder of his term--

Rattigan: In 1966, Los Angeles County was reapportioned.

Rowland: I see, so it was that November-December period.

Rattigan: Los Angeles was without a senator at the 1966 session. It was a budget session only, but it was under several special calls, as was commonly the practice. One of the calls was air pollution. Los Angeles County suddenly became very interested, and they had nobody in the senate.

Their lobbyist, the late Francis McLaughlin, a very close friend of mine, asked me for some help. I became the "senator" for Los Angeles County. I have a handsome resolution at home from the board of supervisors, and another one from the Southern California Rapid Transit District, and some altogether splendid editorials from the Los Angeles Times and the other big Los Angeles daily thanking me.

Rowland: Francis McLaughlin was the lobbyist for?

Rattigan: The County of Los Angeles. He retired about five or six years ago and died this year. He was a retired Los Angeles County employee. We were very close, and I remember the sad occasion of his death.

I found myself carrying a bunch of smog bills in 1966, and making waspish rejoinders to the likes of Sam Yorty on television. Sam was still trying to be governor himself. He was Mayor of Los Angeles and very anti-Brown, and he was accusing Brown of bottling up meaningful air pollution control. We blasted that log jam. All those bills were passed, too. I didn't lose one of them.

Rowland: Had you had a run-in with Yorty before?

##

Rattigan: It wasn't much of one, because we didn't clash head-on personally. We were just on opposite sides.

But in '66 he really took out for me, because he could see what I was doing. These were all good bills from the standpoint of Los Angeles, but he didn't want Pat Brown to get any political credit for them.

Rowland: And he saw you on Pat Brown's side?

Rattigan: Yes, which I was. He made a lot of noise, but he didn't say that. He took the position that it was none of my business, and so on.

Rowland: You mentioned that you did have a previous run-in with Sam Yorty.

Rattigan: I could not reduce that to a personal clash. I don't remember one. As I just said, I collided with him in the sense that we were very much on opposite sides when he was running for one thing and another. Didn't he run for governor in 1962, in the Democratic primary?

Rowland: I believe he did.

Rattigan: I supported him at one point where he ran for the senate, years ago. He ran for the U.S. Senate.

Rowland: He ran in 1954, I believe, or perhaps 1956.

Rattigan: Anyway, Yorty was the Democratic nominee for the U.S. Senate once, and I supported him. I don't think I ever met him, or if I did it was just a casual meeting of a candidate as he passed through.

But we wound up throwing a lot of flak at each other in 1966, and I hearkened back to the days when we'd been theoretically friendly.

Ordering Assembly and Senate Reapportionment

Rowland: Moving on to the failure of the state senate to reapportion itself, and then to the California Supreme Court stepping in and reordering senate, and assembly reapportionment--this came on the heels of a major battle between Assemblyman Don Allen and the state senate. It appears to me, from studying reapportionment, that that battle centered around reapportionment of Los Angeles County and whether candidates would be elected at large. Do you recall that?

Rattigan: No. I'm sure everything you're saying is accurate, but I have to start by saying that I don't really recall.

The senate did reapportion itself in 1966. It did.

Rowland: In 1965, the California Supreme Court said that the senate and assembly had to reapportion themselves--

Rattigan: And they did.

Rowland: But I think this followed a major battle when the senate was trying to reapportion itself, and the assembly refused to agree on senate reapportionment. This was Senator Teales's major reapportionment bill, SB [Senate Bill] 6.

Rattigan: Yes, that comes back to me. I don't remember Don Allen.

Rowland: Don Allen was Chairman of the Assembly Elections and Reapportionment--

Rattigan: That's right, he was, but he was without influence. He was non-influential.

Rowland: An Unruh figurehead?

Rattigan: Yes, a palace guard type, with ornamental value and not much else.

Rowland: Who was Unruh?

Rattigan: The Speaker.

Rowland: What was he trying to do about senate reapportionment?

Rattigan: I couldn't say, I don't know. Whatever it was, Steve Teale, or someone in Steve's position might know, but I wouldn't because it didn't involve me.

Rowland: Do you recall the battles between Tom Rees and Speaker Unruh over whether Los Angeles candidates will be elected at large or by districts?

Rattigan: No, I don't remember that, and I have in mind that Tom Rees was gone by '66.

Rowland: Right, by '66 he had left the legislature.

Rattigan: He might have still been fighting with them, even as a congressman.

Rowland: But I believe that he left because he knew he wouldn't be re-elected under reapportionment.

Rattigan: I don't think so. I had a very much-consulted voice in his running for the congress. He did not run for the Congress because he thought he would not be re-elected. The converse is true. He, and everyone else, regarded his seat as safe, whether it was at large or in the district where he lived. If it was at large, he had already represented the county at large, and been elected, and he had represented the district in the assembly, and still lived there.

He had no qualms about not being re-elected. I can vouch for that, because he consulted with me and a few others. I was very intimately involved in his final decision.

I encouraged him to run for Congress, upon the theory that the reapportionment battle had been lost. I don't purport to speak for him now, but this is my recollection. Tom was disinterested in sitting in the newly-reapportioned senate when he had the opportunity to run for Congress. It's important to remember that he only had the one opportunity. If somebody else ran, he wouldn't have the opportunity again. I urged that he run for congress, and he did.

Rowland: The final decision of the [California] Supreme Court to order both senate and assembly reapportionment culminated in one major bill taking care of both houses.

Rattigan: Taking care of the Congress, too!

Rowland: There was a two-way street agreement between Speaker Unruh and pro tem Burns. That is, "you accept my house's reapportionment, we'll accept yours." What was the role of Hugh Burns in this position? Had he finally given up on the idea that reapportionment was such an evil?

Rattigan: I think he had, and I don't think it bothered him all that much. I think he regretted it, but it didn't affect him.

Rowland: It didn't affect him?

Rattigan: No, because Fresno County remained virtually intact. He succeeded to virtually the same seat he'd always had. In fact, his district might have been--

Rowland: Was that a political decision to keep his district intact? Out of respect, for instance?

Rattigan: No. The population was there, and it made sense. The number one agricultural county in the number one agricultural state. Senator Burns always had a big, tough district. Its registration favored him.

Rowland: Was his district the only district whose lines had not been changed?

Rattigan: Its lines changed; I think it became a little smaller. But no, it was not the only district, Alameda County emerged with two seats at large. Senator Clark Bradley's district, which was Santa Clara County, became smaller, but left him his own constituency.

Rowland: Were you on the reapportionment committee?

Rattigan: Yes. I didn't have much to do with drawing the map, that was pretty much a closed operation because it was so highly technical. Everybody had a general idea of what was going on, but putting lines on paper was done by technicians.

I was not all that passionately interested by then anyway, because I had pretty much decided that they were going to go ahead without me, although I hadn't made any announcement. I was on the committee which finally approved it as a senate committee.

The late Senator Gene Nisbet had San Bernardino County; his district became smaller, but left him his constituency. Senator Schrade's district in San Diego became smaller, and left him his preferred constituency. I could think of others, such as Senator Dolwig of San Mateo County, whose district remained virtually intact. It was just about the right size. There were several.

Whereas, contrast myself, Senator Peterson, Senator Christensen, Senator Collier--four of us all being thrust into one geographical district. Napa and Yolo Counties had no senator, because Senator Sam Geddes died and they didn't replace him with reapportionment coming. But that district, and Senator Luther Gibson's district, and Marin County were three senators thrust into one. There were many others.

But there were several, of whom Burns was one, where in deference to the incumbent, but also quite logically, the district remained substantially the same, or became smaller. That's because they had the population. It's relevant to note that Senator Burns succeeded Harold "Butch" Powers as President pro tem of the Senate, and that Senator Burns represented a big, heavy district. Senator Powers did not. The occasional complaint of rural domination of the senate made more sense when Powers was pro tem than it did when Senator Burns was, because Fresno is big and has a multi-billion dollar agricultural income. It's not an easy district

Rattigan: to represent, and it credits Senator Burns's competence that he always did a pretty good job of it.

Retirement Benefits and Reapportionment

Rowland: Two of the final bills that came out which ordered both the senate and assembly reapportionment, which was AB [Assembly Bill] 1-- There was an interesting development when after that was passed by both the senate and assembly, and signed by Governor Brown, there was a technical correction bill, SB [Senate Bill] 13, which Senator Teale authored, which corrected some of the mistakes in the original bill for reapportionment. Assemblyman Don Allen inserted a rider to that bill, giving very liberal retirement benefits for "public service"--any public service prior or after reapportionment, that is, prior to the service and after the service of any state legislator. This whole technical correction bill was vetoed by Pat Prown.

Rattigan: Yes, I remember that.

That's not the bill which established the instant pensions. As I recall it was vetoed not so much because of what it did for legislators, but because it dragged in a few other people. It included preferred people among the hired help, such as Larry Margolis, who was Speaker Unruh's chief executive, and Clarence Alexander, the senate business manager. The record would show whatever it was that Governor Brown vetoed.

The legislature also passed a bill, subsequently repealed, which reduced the minimum eligibility for a senate pension. It did two things. It reduced the minimum eligibility from six years to four, and it provided that anyone who did not come back to the senate in a reapportionment year, meaning someone who quit or someone who was defeated, was eligible for the pension right now.

Rowland: Provided they did some public service?

Rattigan: No. Four years in the senate. Not a public service bill, a senate service bill, a legislative service bill, which reduced the minimum eligibility of time served from six years to four, thereby bringing in all one-term senators, and paying the pension right now. It also duplicated that in future reapportionments. When a lot more people quit in 1970 due to the decennial reapportionment, they started drawing pensions immediately. When the decennial reapportionment was held unconstitutional, and the supreme court reapportioned the senate, some more people started to draw it.

Rattigan: That bill was finally repealed in 1974, I think. Assemblyman McLennan, from southern California, made a big issue of it. Ronald Reagan, although he was not running, joined up with him, and the flap became extensive, and the legislature repealed that, leaving only two people alive who had never drawn it. I'm one of them, and that's why I'm familiar with it.

Frank Petersen, who is a superior court judge in Del Norte County--he and I just wouldn't double-dip. This was no big deal, we just respectfully declined. There was no play on the subject at all until the repeal movement got started, and the Sacramento Union, for reasons which I never knew, discovered that there were only two people not drawing lifetime pensions. I would have drawn approximately five hundred dollars a month. I didn't, and it's been repealed on me, but the Union did a huge story about Petersen and Rattigan eschewing the lucrative pension.

That had two sides to it. One, it was gratifying to be appreciated, but I also learned of all these people who were in the same position drawing big pensions--judges included. It might have paid to be less abstemious. It's academic now because it's been repealed.

Rowland: But that wasn't the Allen rider?

Rattigan: No, it was not, because Governor Brown did not veto the program I'm talking about. It finally succumbed to popular outrage.

Rowland: Were you aware of Allen's rider?

Rattigan: Yes, yes.

Rowland: There was a unanimous vote for it in the senate.

Rattigan: I think it was a sweetheart package.

Rowland: Senator Teale said that almost all senators really weren't aware of what the bill was going to do.

Rattigan: I remember it vaguely, and I remember that I was aware of it.

Rowland: Assemblyman Allen presented this as fully briefed by Governor Brown, and Governor Brown approved of it.

Rattigan: That part, I don't know about. I did not even remember it being done through a rider tucked in by Don Allen. That part I don't know about, or I didn't know about, or I had forgotten it.

But I remember the bill, and it did not affect legislators. It affected a crew of selected personnel, who would have been taken into the legislative retirement system, and they specifically

Rattigan: included Larry Margolis and Clarence Alexander. Governor Brown vetoed it. I don't know why he vetoed it. I guess for two reasons. He deemed it a preferential bill, which it was, and he was also sensitive about the political manipulation involved. Larry Margolis was Jess Unruh's number one man, and Clarence Alexander was Hugh Burns's number one man. Now there may have been others.

Rowland: What was the last name you mentioned?

Rattigan: Clarence Alexander, I forget his title, was Senator Burns's right hand man. He was the business manager of the senate, and the number one staff man of the Senate Rules Committee. He was the guy in charge of where your office was, and your furniture and your help.

He went out when Senator Burns was ousted as pro tem in 1967 or '68. He was around for awhile, and then he quit or was replaced. Last I heard of him he was retired. He and Senator Burns had an insurance business, incidentally, between them. I know nothing about that except that it existed.

Rowland: One quick question before we have to leave. You said that you appointed a few constituents to state boards, and you had a few angles on regulatory boards. Do you remember what regulatory boards you oversaw or appointed people to?

Rattigan: Let me say that I didn't have all that much to do with these regulatory boards. I had some recognition in the regulated professions because I was on the Senate Business and Professions Committee. And, I had some friends--or just constituents, not friends, who were qualified.

I can tell you who some of them were. The one I remember best was James Logan Smith, a Certified Public Accountant, who became a member of the State Board of Accountancy. Doctor Dario Marioni, a veterinarian from Sonoma, became a member of the State Board of Veterinary Examiners. Doctor Marioni is an example of a person whom I didn't even know. It was not a political appointment, it was a matter of his being purely qualified. I was consulted, I was impressed with him, and I put in a good word for him.

There were a few other such instances, a few.

Rowland: Any major regulatory boards, like the Public Utilities Commission [PUC]?

Rattigan: I never had anything to do with a PUC appointment. I was consulted in the appointments of a few judges, because I was close enough to the governor, and I was the only one fairly close to

Rattigan: him with a wide geographical range of person exposure and experience in the north coastal counties in the practice of law. I didn't invent any judges--I claim no credit for any of this--but I was consulted.

Rowland: I have some other shotgun questions here--things we just throw out.

Rattigan: Go ahead.

Rowland: For instance, on your campaigns in 1958 and beyond, how did you work those campaigns? In the latter years did you have a public relations firm working for you?

Rattigan: No. I had a paid man in 1958, who later became my administrative assistant. He was not a professional. He was good at it, but he was not a professional political operator.

In 1962, I didn't employ anybody, I did it all myself. I had to have a man in '58. In '62 I didn't need one.

Rowland: Did the CDC [California Democratic Council] come to your assistance? They did in '58.

Rattigan: Yes, with a lot of manpower, not so much by way of money. They were most helpful, very active in those days. There were some active groups in Sonoma County, within the district.

Rowland: And in '62 also?

Rattigan: In '62, yes.

Rowland: The relations with Pat Brown--do you recall any other frictions between Governor Brown and the state senate besides the reapportionment problems and friction over the Wellman Commission. There might have been some problem with the Fair Housing Act, or the Fair Employment Practices Commission.

Rattigan: There was no friction between the senate and Governor Brown on fair housing. He was known to support it, but he was not all that instrumental in getting it out. That was done in the freakish way that I described earlier.

Fair employment practices was a political achievement for him. It was resented by some members of the senate, but they were vastly outnumbered. They were the ones that turned up voting no. I'd say that amounted to fifteen people. I don't think it had that many more no votes in the senate. It was fairly close, as I recall.

Rattigan: I don't recall any animosity between Governor Brown and the senate when he appointed his blue ribbon commission. There may have been some.

Governors tend to become at odds with legislators anyway, especially powerful legislators, because they get into each other's way. I never worked like that, and I wasn't privy to all the animosities that might have developed, so I'm not as fully informed as I might be.

Rowland: One last question here, going back to reapportionment. Everyone I've been talking to on reapportionment points to the fact that since senate reapportionment, and even during the battle over reapportionment with the assembly, there was talk about getting a group of professionals in the senate and raising the salary of legislators in general so the the job of state senator would be full-time rather than a part-time job. I think possibly that came from Don Allen's camp and the assembly side, rather than the senate. Do you recall those arguments?

Rattigan: I think a lot of senators, known to me, were lukewarm or disinterested in the career legislator angle, but they were all highly receptive to the salaries. When they got the salaries they pretty much became full-time legislators because they earned the salaries.

I always had mixed feelings about that concept. I'm more against it now than I was then. I had mixed feelings then; I'm more negative now, because a combination of the full-time legislator, the reapportioned districts, and the development of the media campaign, has removed office holders, in my opinion, too far away from the people that they represent.

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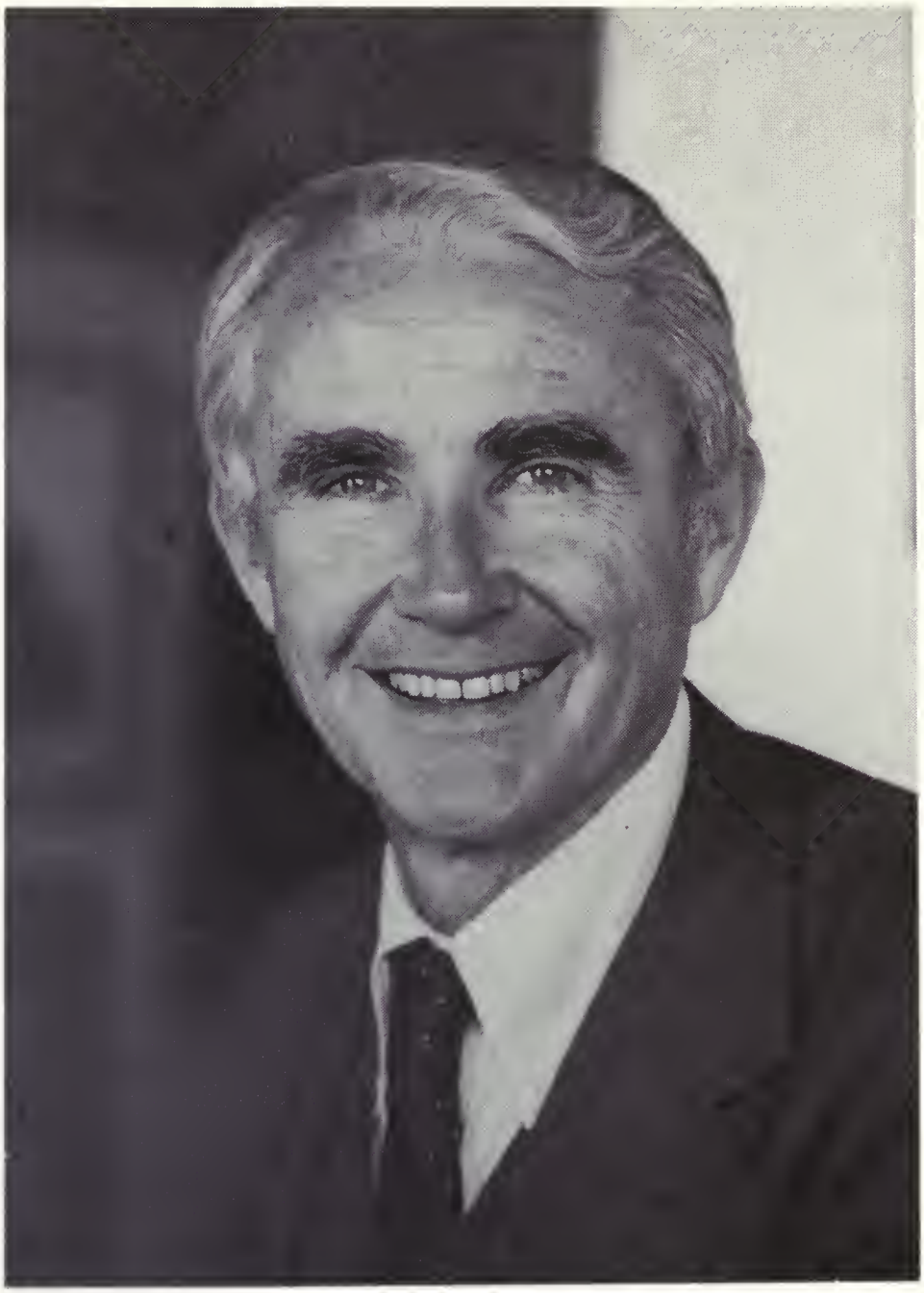

BRUCE W. SUMNER

circa 1980

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Goodwin Knight/Edmund Brown, Sr. Era

Bruce W. Sumner

CALIFORNIA STATE ASSEMBLYMAN AND CHAIRMAN OF THE CONSTITUTION REVISION COMMISSION, 1964-1970

An Interview Conducted by
Sarah Sharp
in 1979

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INTERVIEW HISTORY

Bruce Wilson Sumner was an assemblyman from Orange County from 1956 through 1962. Between 1964 and 1970 he was chairman of the Constitution Revision Commission, a legislatively created and voter-approved board instructed to modernize the California state constitution. Sumner is now a superior court judge in Santa Ana in charge of the probate department. Since 1956, then, Sumner has viewed state government in California from several perspectives.

In the process of general research into California government history from 1953 through 1966, the period when Goodwin J. Knight and Edmund G. Brown, Sr. were governors, the name of the Constitution Revision Commission (CRC) was added to a growing list of special, short-lived commissions. Along with the recognized state departments and agencies, bodies such as the CRC must be viewed as having real impact on the way California is governed. We chose to look more closely at the CRC because the issue of constitutional revision has been such an important one in California social, political, and economic history since the first constitution was adopted in 1849.

As is typical of many bureaucratic agencies in government, the Constitution Revision Commission generated a vast number of papers in the form of memos, interim and committee reports, letters, and other items. There are some twenty cubic feet of CRC papers at the State Archives in Sacramento, as well as a much smaller sampling at the library of the Institute for Governmental Studies at U.C. Berkeley. Faced with what has become a classic problem in oral history research, that of using specific interviewees to contrast their views with impressions received by reading written documents, this interviewer-editor chose to focus only on some of the more important issues addressed by the CRC, such as legislative compensation and the initiative process, which became ballot propositions between 1966 and 1972.

Judge Sumner was a logical choice as an interviewee because he was chairman for most of the life of the commission. He was at once enthusiastic about discussing the CRC's work, even within the constraints of only two interviewing sessions. We met on 25 and 26 October 1979, in his chambers at the modern courthouse in Santa Ana. Volumes of California Reports and West's Annotated California Codes, along with a strong complement of black binders holding many of the CRC's published reports, lined the shelves of this office. We sat on either side of the judge's desk, where we had a view of the courthouse's pleasant courtyard.

Judge Sumner opened the first session with a lively discussion of his youth in the Midwest, enlivened with family anecdotes. He quickly moved on to his work as an assemblyman, especially addressing his role on the Water and

Judiciary Committees. Early on Judge Sumner had been interested in making the CRC's work more visible, as he had published several articles on selected topics while chairman. Sumner candidly discussed many of the constitutional articles tackled by the commission, and the politics involved in each.

Upon his review of the edited transcript, Judge Sumner seriously considered what changes needed to be made. He spent much time clarifying wording and adding short passages, in all creating a fine recollection of a sampling of important changes in the California constitution made by the Constitution Revision Commission.

Dr. Sarah Sharp
Interviewer-Editor

14 October 1980
Regional Oral History Office
486 The Bancroft Library
University of California at Berkeley

Regional Oral History Office
Room 486
The Bancroft Library
University of California
Berkeley, California 94720

Governmental History Documentation Project Interviewee

Your full name Bruce Wilson Sumner

Date of birth July 1, 1924

Father's full name Harlan Randolph Sumner

Father's place of birth Peoria Ill.

Mother's full name Mildred Virginia Stewart

Mother's place of birth Bozeman Montana

Where did you grow up? Minneapolis Minn.

Education Univ of Minn B.S. JD

Early employment Marine Corps Lawyer

Positions held in state government assemblyman, Judge of Superior Court Member of Judicial Council of California

Employment after leaving state government —

I A MIDWESTERN YOUTH AND OTHER EARLY EXPERIENCES

[Interview 1: October 25, 1979]##

Sharp: We always like to have some identification on our interviewee so he just doesn't stand out there as an element of the state government without having any real personality.

Sumner: My family is very important, my background.

Sharp: One of the questions that is not on here [referring to interviewee biography form] is about your parents' ethnic origins, and that's something that I'd like to start with, if you could just briefly tell me.

Sumner: Well, they're both Anglo-Saxon, Protestant.

They are somewhat unique in that both my parents taught at the university level. My mother is a chemist and a very able one and worked as such. My father died when I was eighteen, and my mother went back to work as a chemist. I guess it affects my attitudes in that in my family I was very secure and always felt that I was loved. I loved my father dearly. He was an agronomist. I always considered my mother smarter than he--just kind of one of those things kids know--but he was a charmer and a marvelous person. The whole idea of women's rights and so on never occurred to me as being a problem because my mother was truly "liberated" and was a skilled professional.

Sharp: It seemed basic to what she was all about?

##This symbol indicates that a tape or a segment of a tape has begun or ended. For a guide to the tapes see page 68.

Sumner: Well, she could do anything and [was] a very forceful, powerful person. I guess she was almost Betty Crocker. Later on, she was remarried to Charlie Poor.

I can see now that having both parents university graduates, and in teaching at one point, gave me the tremendous advantage of having a home where, for example, when it came to English grammar, all I had to do was try to think, "How would my parents say it?" and that's the way it would be. So, I didn't have to go through some of the problems in school that other people did.

Sharp: So, you came from a family where learning was a pretty important part of the atmosphere.

Sumner: It was the most important thing. My father's attitude always was that it didn't make any difference how much money someone had; that was almost scorned. It was how much they had done, how bright they were, and how much of a contribution they made. There just was no question in my mind. I thought that's the way the world should be.

Sharp: It sounds like a pretty great family to grow up in.

Sumner: That's why I say it is very important in understanding me, if that's at all a part of this.

Sharp: Were you an only child?

Sumner: No. I have a brother who teaches geophysics at the University of Arizona. He's a full professor there.

Sharp: What is his name?

Sumner: John Stewart [Sumner].

Sharp: Did you have religious influences as a child or as a young adult?

Sumner: Oh, no, I guess not. The first time I joined the church was when I went off into the service out of kind of a sop to my mother. I went to Sunday school and that type of thing. I think there was a very strong moral atmosphere within the family. My father was proud and was quite ethical--it was important to be fair.

Sharp: You must have had a lot of reading to do in the house.

Sumner: A lot.

Sharp: What kinds of books and periodicals did you read?

Sumner: I was a history buff from the time I was a little kid, so I just read everything I could find on history. This was Minneapolis [Minnesota]. I don't know if you're familiar with the Midwest.

Sharp: I grew up there.

Sumner: Oh, you did? Okay. A lot of people think of the Midwest as being a cultural wasteland. To the contrary, it's not. I'm glad I grew up there. [laughter]

Sharp: Me too. [laughter]

Sumner: Where were you? Minneapolis?

Sharp: In Kansas City.

Sumner: Well, my father taught for a little while at Kansas State.

Sharp: In Manhattan?

Sumner: Yes.

Sharp: I loved the Midwest. I still do.

What, then, is your early career history? You went to grammar school and high school, and where all did you go to school?

Sumner: Beginning at age four, we lived in Minneapolis, and my father then left teaching as such and became the executive director of the Northwest Crop Improvement Association, which is a nonprofit organization designed to promote better agriculture throughout the Midwest. Shortly before he died, he joined a big grain firm, the F.H. Peavy Company.

But I went through the public school system in Minneapolis, and then the University of Minnesota. I graduated from high school in '42 and started at the university immediately because I was obsessed with not being behind; the war was on and I knew that my time was limited.

So then I joined the Marine Corps and was sent to Notre Dame [University] and spent a year there, which was a shock [laughter] for a University of Minnesota student.

Sharp: Why?

Sumner: Because of the religious thing. I couldn't believe it!

Sharp: And the football. Well, you had the football in Minneapolis.

Sumner: Oh, the football. No, but not religious football.

Sharp: Not football! [chuckles]

Sumner: I can remember Father Coyle. He was a priest I had in a Shakespeare class. And John Perco, who was a Minnesota guy from the range--if you know the Midwest, the range brought up great football players, a lot of people with Slavic backgrounds who were husky and powerful, and they had a great school system because the iron ore, which was then very big--a lot of revenues went into the schools. So, they were always very formidable in every form of athletics. So, John was very bright, very able. He and I were good friends.

We were walking out, and Father Coyle came up to him and said, "John, you're between a B and an A, and if you can beat Georgia Tech next week, you get an A." [laughter] I couldn't believe it! I was eighteen. And that just--! I was a terribly straight type of guy with all these little values. And that just, just--I never recovered from that!

Sharp: That wouldn't have set too well with your parents, I don't think, either. That would have been pretty shocking.

Sumner: Oh, well, my father would have understood; my mother too. It was a strange feeling. But I had all these values. So, I believed everything that was taught. I really did believe that every day in every way things were getting better. I did believe that, and I did believe that the world would be more and more based on reason and that prejudice would lessen as people died off who had prejudice, and I did believe that the kooky fundamentalist cults and so on would pass away because people were really becoming smarter.

It required a certain amount of adjustment to recognize that all these things are not true--not that I think the world's going to hell, but it sure isn't much better. It really isn't, and some of these things are accelerating in the wrong direction.

Sharp: That would have made your years as assemblyman and the years on the Constitution Revision Commission a real jolt, if you hadn't already had quite a few jolts.

Sumner: Well, no, I started--my first political campaign was when I was ten years old, I think. My great-uncle, Samuel Vernon Stewart, was once governor of Montana. The Montana part is an important part of me.

Sumner: My mother's father was a judge, and her two uncles were lawyers, and these three guys came out to Montana in the 1800s and set up in different parts of the state and were very powerful politically.

So, Uncle Vern, who was kind of like God to me, was running for re-election on the [Montana] Supreme Court, and I've often thought it was indicative of me; I mean, one of these things that set your course a little bit. I came through Bozeman, if you're familiar with that area. Are you?

Sharp: Pretty familiar.

Sumner: At any rate, I said, "What can I do to help you?" and he said, "Just pass out these cards." So, I was downtown passing out these little cards that said, "Vote for Sam Stewart for Supreme Court Justice." To me, he was Uncle Vern, but to the world he was Sam. I handed this [card] to one cowboy, and he looked at it and said, "Sam Stewart, that son of a bitch!" He threw it down and spat. I was so upset that I went around looking for the other guy's signs to tear them down and to try and get even. [laughter] I wasn't about to cry; I was going to kill!

So, I had no illusions about politics and was very involved in it. I was running for the legislature in Minnesota at the time I was recalled in the Korean War, which is a little-known fact.

So, I had that background, and Minnesota is a fascinating state politically. When you look at the number of leaders who have come from there and then you look at the size of the state, it just is crazy. But there was lots of interest there.

Sharp: Certainly even earlier than the Progressives, and through the Progressives, through Hubert Humphrey.

Sumner: And the Nonpartisan League.

Sharp: Everybody, yes.

Sumner: The Humphrey group were our rivals.

Sharp: Oh, yes!

II YEARS IN THE CALIFORNIA STATE ASSEMBLY, 1956-1962

Getting Established in Orange County

Sharp: How did you get to California then?

Sumner: Well, I was recalled to Korea, came back from Korea, and was stationed at El Toro [California]. See, I did nothing until I was twenty-eight but go to war and go to school, and there was a little politics in between. That's why when you got down to my first occupation, well, in a way, it was the Marine Corps [referring to interviewee biography form].

I decided that California was the land of milk and honey, and I really liked it here, and so even though I had a good base in Minnesota, I decided to become a Californian. That was a very important decision, of course. So, I took the California bar [exam] and set up practice here in Santa Ana.

Sharp: How did you decide to run for assemblyman from Orange County?

Sumner: Well, it was my real interest and district. [laughter] I came to play.

Sharp: Okay. [laughter] The end.

Your term as a California assemblyman, 1956 to 1962, is really an interesting one as far as California politics is concerned, because it's the change over period when Goodwin Knight ended his term and Pat [Edmund G., Sr.] Brown began his.

Sumner: Right.

Sharp: I wanted to ask you what changes you saw in the assembly after Goodwin Knight left the governorship in '58.

Sumner: Could I take a step back? To understand the changes, you should know my concept of what it was like with Goodie Knight, very briefly.

Sharp: Sure.

Sumner: First, there was a Republican majority, and I was a Republican at that time. I since have changed parties. But it was important in my legislative career because I had a chance to be a member of the majority party, though the assembly was not as partisan as it later became.

We had a lot of real leaders, some tremendous personalities, people like Cap [Caspar] Weinberger and Tom [Thomas] Caldecott and Don [Donald] Doyle and Luther Lincoln, who we, of course, called "Abe". He was the speaker [of the assembly]. These were the [Goodwin] Knight forces, although they really were [Earl] Warren people more than they were Knight people. Knight, if you know your political history, as you do, did not establish himself with an imprint, you might say.

Then, in '58, with right-to-work* and with the crazy move by [U.S.] Senator [William] Knowland to try to become governor and the decision by Goodwin Knight to run for the U.S. Senate, everything combined to give the party a tremendous defeat, and they lost every single statewide office. So, we went from a majority to a minority position.

I had gotten along very well in the legislature. I have always been blessed with getting along in bodies like that, even with the people of the other party. For example, right away I was put on the Water Committee.**This was before Brown took over. I was put on Ways and Means. I had an important role in Ways and Means and became a subcommittee chairman, which then really gave you a control over about one-fifth of the budget.

With the [Pat] Brown forces coming in, we then had a change in leadership in the assembly, and Ralph M. Brown became speaker. Well, Ralph and I had always hit it off, and he did the rather unprecedented thing of naming me as chairman of the Judiciary Committee, which is

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*Judge Sumner refers here to Proposition 18 which was on the November ballot in 1958.

**Judge Sumner was actually on the Assembly Conservation, Planning, and Public Works Committee between 1957 and 1959, and on the Assembly Water Committee between 1959 and 1962.

Sumner: what they used to call an "A" committee because of its importance. Twenty-eight percent of all the bills in the legislature go through that committee, so you have a very important position. I also was the Republican whip, so I had a good position in my own party and within the legislative body.

So, the changes within the legislature were not so great, except as far as the governor's office is concerned, because there hadn't been a Democratic governor for some time. The first session especially, after [Pat] Brown was elected, was different. And remember, we were on the biennial sessions then. We met every two years, although we did have a special session; it would be concurrently with the budget session on the odd-numbered years. So, everything that was going to make it was at the request of the governor. That was the magic word that you'd have printed on the bill, and all those things went through.

Work on the Water Committees

Sumner: I was tremendously interested in the water program and was on the Southern California Water Steering Committee as well as on the Water Committee itself. The steering committee was a group of southern Californians who were interested in the water project. This was of vital importance to Orange County. I continued to be in that role and got along very well with the Democratic leadership and with the governor's office.

So, as far as the assembly is concerned, there wasn't much difference. As far as the governor's office is concerned, there really wasn't too much difference for me.

Sharp: You mentioned talking about water and being on the steering committee of the Water Committee.

Sumner: Right. Well, actually, it was a special Southern California Water Steering Committee, which was made up of legislators of both parties from the southern California area. We felt we had a policy or a program that reflected the interests of our area, as compared to, say, the northern area where they were in some cases not interested in the program at all.

Sharp: How were the ideas that came out of this committee then related to what eventually became the California Water Plan?

Sumner: Well, we had the votes, the vote in the legislature and on the ballot. Governor Knight didn't take the steps that Brown did, and so no real resolution was reached.

Back in '57, a lot of us had asked Governor Knight to call a special session on water, because we had a master plan, the California Water Plan, and then we were about to implement one of the phases of it. The Water Plan is the overall plan. The Feather River Project, which was the dam at Oroville, was one phase of it, and also the canal down in the west side of the San Joaquin Valley.

So, [Governor Pat] Brown took an interest, put the power of the governor's office behind it, and also made it a partisan matter. Because of the so-called honeymoon that he was enjoying when he was first elected, he was able to put enough pressure on the northern California senators. Remember, this is before reapportionment.

To dramatize the importance of reapportionment, when I left the assembly I represented more people in my 74th Assembly District than did a total of seventeen senators. In other words, there were seventeen out of the forty senators who represented a combined population of fewer people than I did as a single assemblyman. So, you can see how 11 percent of the people of the state of California dominated the state senate.

The state senators were highly northern California-oriented and highly lobby-controlled. There was one thing we did have. The financial interests of the state--the oil companies, the Chandlers, the railroads, especially the Southern Pacific, and so on--were very interested in the water program because it was to their financial advantage. But that was the only thing we had going. But their northern constituency, that they listened to only on a few occasions, was worried about the Water Plan.

Sharp: To back up just a bit and talk about the Feather River Project and money, it's during Governor Knight's administration that the budget of the state really grew.

Sumner: Right.

Sharp: It just grew incredibly, and there must have been quite a bit of concern about where the money was going to come from.

Sumner: Well, we still had the rainy day fund. When I was first elected, one of the big debates was, is it healthy to have a surplus or not? There had been a surplus from the days of Governor [Earl] Warren, and the idea then was that this was money that would be spent on rainy day projects, so called [chuckles], and also after the war [World War II]. Our revenues increased too.

Sharp: From tidelands oil?

Sumner: Well, no. With the growth of the state, just as now, the sales tax revenues would increase as the numbers of sales increased.

The Problems of Oil

Sumner: And, of course, the tidelands thing; that was another huge battle that we had. I'll never forget that one, when we took on the oil companies. When I was first elected, the oil companies who had the royalties for the offshore drilling were only having to pay, I think it was, 16 percent, if you can believe this. At the present time, and even then, some of the oil companies that were dealing with the city of Long Beach would pay in the nineties because the oil was so accessible; it would just come out of the ground and into the refinery. It was a bipartisan historic vote when we managed to beat big and little oil to change the royalty formula from a fixed one with a ceiling to a negotiable sliding formula.

The revenues to the state were not of real concern to me until we got into the [Pat] Brown years, and then I could see some of these programs that were projected, like the removal of the responsible relatives clause and the expansion of some of the other welfare benefits--when you looked at them on a projection, you could see that we just did not have the money to pay for them. Being a fiscal conservative, that really worried me.

Sharp: When you were on the Assembly Ways and Means Committee, was that concern about income for the next several years an abiding concern with a lot of the members of the committee?

Sumner: Yes. I was on so-called "murderers' row," which was a group of assemblymen to whom all of the welfare bills were given. We did battle with George McLain and his pension group, who, in my view then and now, really were fighting hard to increase the level of some of the pension programs, at the expense of the disabled, if that makes sense. In other words, they would use the blind and the disabled as the forerunner and then not ask for more money for them, but ask for money for all of their constituents.

Sharp: Bruce Allen is a person whom we're planning to interview, mainly because he was the original author of the bill in 1955 to get the tidelands oil revenues from the city of Long Beach to come into the state coffers, rather than just go to Long Beach. We didn't know if he worked single-handedly to get the funds from Long Beach to come into the state coffers.

Lumner: [chuckles] I don't want to in any way disparage what he did, but the answer is no. No one can do it themselves. Now, it's true that you can have somebody who keeps raising the question, but unless you have forty-one votes with you, you can't do a thing. He was one of those that was involved.

Sharp: Was that seen as one attempt to get more revenue for the state because of the revenue crunch that seemed to be coming?

Sumner: The revenue crunch wasn't as big a thing as the fairness factor, at least in my view. The coming revenue crunch I never viewed as a great serious problem. I didn't believe that there would be. I thought if there was, we'd raise taxes.

Sharp: Goodie Knight was very reluctant to raise taxes.

Sumner: Well, but Goodie Knight was highly political. I don't think Goodie Knight really had a program. See, if you look in his political background, he was kind of the darling of the conservatives at one point. Then, when he became governor, he became kind of the darling of the labor movement as he was trying to moderate his position. A very able man, very articulate, very bright, but he wasn't long on program or courage. [chuckles]

Sharp: Well, he had quite a few rough political battles from 1956 all the way through 1958.

The "Big Switch"

Sumner: Well, but had he stayed in the fight for governor, as he should have, that would have been the real test.

Sharp: There's quite a bit of controversy about what he should have done and what he shouldn't have done, but it certainly would have been a very different next four years if he had run.

There was some sense that Pat Brown might not have run if Goodie Knight had actually been running for re-election.

Sumner: I don't believe that. I think Pat's time was due. Are you going to interview him?

Sharp: We've interviewed him several times already.

Sumner: Has he said that?

Sharp: I'm not sure. Other people have said it, but I'm not sure if Pat Brown has.

Sumner: One of my recollections of the time is a kind of a gridiron type meeting. I had the transcript of it and maybe I still have it someplace, where the press corps in Sacramento was making great sport of this and they would refer to "Good Goodius" and "Knowlandius" and "Nixius". It was a marvelous ironic parody of the true characters of all these people, with "Nixius" standing in the corner rubbing his hands anticipating, hoping the two [Knight and Knowland] would kill each other, which they did. "Good Goodius" kind of being bumbling, and Knowland, with his--he was a marvelous man personally--tremendous ego and lack of real understanding of California at the time.

Sharp: You're speaking of Bill Knowland now?

Sumner: Yes. Typical of Bill Knowland--I'll never forget. Jack Beaver and I managed Cap [Caspar] Weinberger's campaign for state chairman. I, in fact, nominated Weinberger. On the other side was a fellow whose name I can't remember. He was nominated by Knowland. Of course, in the background here too Nixon was sitting back there with candidates on both sides and just typically watching everybody get cut up.

Knowland gave his speech and never got to the question of nominating until he got to the end and was about to sit down, and somebody said, "Whose name are you putting in nomination?" He had been talking about Formosa or something, which was so typical of Knowland.

Sharp: I hadn't heard that particular story about Bill Knowland.

A Note on Judiciary Committee Work

Sharp: To get back to your various duties within the assembly, your role as chairman of the Assembly Judiciary Committee I wanted to ask you about. I'm not even really sure what the Assembly Judiciary Committee does, and perhaps you could explain that first of all.

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Sumner: First, it had to do with the operation of the courts. All bills that had to do with things like the Evidence Code, the Civil Code, the Code of Civil Procedure, all new courts (in other words, the people who would come in and ask for appointment of judges)--all of those bills would go to the Judiciary [Committee], so we had a very, very high volume.

Sumner: We'd deal with things like the Corporations Code, questions of what should be the law concerning establishment of title companies (and we had some big legislation on that, battles there between the title companies and the savings and loans), bills dealing with things like divorce and adoptions and everything in that area.

Sharp: Did you have to match these bills with what the constitution said too?

Sumner: No. The constitution is really silent in most of these areas. If you were to propose a bill that would, in the opinion of the legislative counsel, have a constitutional question, that would be noted, and in most cases most legislators of that time would not carry a bill that was thought to be unconstitutional.

Transition: The Assembly to the Constitution Revision Commission

Sharp: Then, just to sum up what you did as an assemblyman for those six years, I wondered if you know now of some experiences that you took away from your assemblyman years to your years as chairman of the Constitution Revision Commission.*

Sumner: Well, first, I've always been interested in procedure. To me, the hallmark of a representative government is its procedure, how we do things. So, how the assembly worked, how the senate worked, how the governor's office worked, and how it all fit together was a very important lesson for me to learn; also, the role of the personalities.

I think I also learned that (which I utilized in constitution revision) you cannot expect to accomplish everything at one time. That's why we kept coming back year after year after year on our revision packages--really modifications, variations, of the same thing that had perhaps been presented and defeated.

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*Judge Sumner was chairman of the Constitution Revision Commission from 1964 through 1970. He was not the first chairman, however. Earlier in 1964 James C. Sheppard and Robert Gordon Sproul had been elected co-chairmen by the commission. Sheppard died late in 1964 and Sproul continued on as chairman until November, 1964, when Judge Sumner was elected chairman.

Sumner: I got to know the individuals. To me, in state government, it's very important to know who the people are. I've always been amazed at people like Governors [Jerry] Brown and [Ronald] Reagan who have no frame of reference concerning prominent people in government, so they really don't know them. We all hear things about people, but you have to make your own evaluations.

Of course, being chairman of the [Judiciary] Committee, being in that role, was a good experience in acting as a presiding officer, which I have in many occasions throughout my life. But in presiding over a committee like Judiciary, frequently my goal was to get a decision, not my decision, but to get the committee to make a decision. That's the posture I took on the Revision Commission. I didn't vote on the Revision Commission, unless there was a tie. They used to kid me about that, but I wouldn't vote and I wouldn't indicate how I felt. I worked to reach a consensus, to make a decision, and to move on. In retrospect, that's the almost unique thing about that commission, all of the substantive decisions that we made. We made decisions and then went on to the next project, and for a group of lay people to do that is beyond the comprehension of many legislators.

We did it, and we not only did the substance; we did the text, the exact wording, and presented it. We did it and we finished it. I guess always, even in my practice, I consider myself a finisher. A lot of people never get something done. You've got to be unafraid to reach a conclusion and say, "That's it. It's not perfect. That's it," and then leave it alone. I think I learned that more in the assembly than most any other place.

III THE CONSTITUTION REVISION COMMISSION: GETTING ESTABLISHED

Important Forces

Sharp: I'd like now to start talking about the third set of questions I have, and that's the beginnings of constitutional revision.

Sumner: Okay.

Sharp: First of all, how did the commission come about?

Sumner: All right. In 1962, the chairman of the Assembly Constitutional Amendments Committee was Assemblyman John Busterud, and I was a member of that committee. I was interested in constitutional law. Actually, this dates back to Minnesota. Minnesota has a strange circumstance of having two constitutions because the two different versions were written at different times and there was a slight difference, and there was a big talk about constitutional revision when I was interested in politics back then. So then, when I became a member of the California legislature and was on the Constitutional Amendments Committee, which was a committee of the assembly, I discovered that it was this terribly unwieldy document.

Also, my friends in the League of Women Voters were interested in the whole project, and I'm a great fan of the league in their projects. I think they're just about the most important--political, and not in a partisan sense--organization in the state.

It was decided that we should have a so-called gateway amendment. There had been a vote for a constitutional convention in the past. I think it was in 1934. The people said, "Yes, let's do it," but the legislature failed to pass the necessary legislation to put that into effect. So, there was some question as to whether or not you could present a revision of the constitution to the voters and cover more than one subject. The so-called one-subject limitation was still in the constitution.

Sumner: So, we felt that it was necessary to submit to the people the question, "Do you want your legislature to present a new constitution either as an entire document or on a piecemeal basis," and, "Should this be an amendment to the constitution?" We presented that question in 1962, and by a two-to-one vote--it was Proposition 7 that year--the people voted yes.

Before the measure was presented to the people, it was known that the legislatively presented amendments would be the work primarily of a Revision Commission. It was announced that the Revision Commission would be appointed by the legislature, not by the governor, not by the [state] supreme court, and not by a combination. So, when Proposition 7 passed [in 1962] the legislature acted, and the Revision Commission was established.

The first executive director [of the Revision Commission] was Assemblyman John Busterud, who left the legislature in '62, the same time I did, and ran for statewide office--I think it was state treasurer--and was defeated. I was named as one of the members of the Revision Commission.

We held our first meeting in February of 1964 in Sacramento. At that meeting, there was some question about just how were we going to proceed. The legislature took pretty much a hands-off position. The leadership in the assembly at that time was Assemblyman Jesse Unruh, and on the senate side it was Hugh Burns. Jesse had a very strong interest in revision, in the whole project. All of the legislators had an interest in the question of, "How was their pay going to be set?"

The commission was a remarkably good cross section of leadership in California, not so much lay public members, but leadership members from different groups; for example, the head of the Teamsters, Einar Mohn.* You have a list of all the people, I assume. You know.

Sharp: Yes.

Sumner: There's really an interesting cross section.

So we were first presented with a question of how to proceed. We decided to elect co-chairmen. It turned out to be a mistake--one north, one south; one Republican, one Democrat. We chose

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*Einar O. Mohn was international director of the Western Conference of Teamsters.

Sumner: Robert Gordon Sproul, who, unfortunately, was just not up to it in health. He had been on a revision commission, or on a commission to revise, that had been held in years past, so that was one of his claims to fame, plus being, of course, an eminent educator. The other was Jim [James] Sheppard, from Los Angeles, who soon died of cancer.

Sharp: I'd like to back you up a bit and ask you some questions about what you've said.

Sumner: Sure.

Sharp: First of all, there's some school of thought that sees Jesse Unruh as the kingpin of the Constitution Revision Commission, that it was essentially his idea.

Sumner: Not true.

Sharp: What you've just said pretty much negates that idea.

Sumner: No, it's not true. Now, this was, again, a joint decision. I'd say you could argue that John Busterud was as much the kingpin, or that the League of Women Voters of California was as much the kingpin, or that other people, or that I was one of the kingpins. I certainly was interested in the project. We needed each other. Bob [Robert] Monagan, who was the Republican leader, was very much involved. Hugh [Houston] Flournoy, who was very close to Monagan and was the guy we could talk to better than Monagan on the subject, was very much involved. Jerry [Jerome] Waldie, who was the Democratic majority leader, was very much involved. It was not Jesse that did it entirely.

Now, Jesse's role was critically important because of his position. I think Jesse would agree with this; maybe he wouldn't. One of the things that made Unruh a very good speaker was his willingness to let other people do their thing. He doesn't exercise the kind of control that, say, a [Richard] Nixon does, or that one of the imperial types does, or that a Jerry [Edmund G., Jr.] Brown does even. Jesse's genius for leadership was, in part, getting people around him who could do a good job and then letting them go. But, no, it wasn't his [idea].

Sharp: I'd like to show you a letter that I found in the IGS [Institute for Governmental Studies] files that, of course, is yours.*

Sumner: Oh, yes. I read it.

Sharp: That pretty much speaks about what you were saying, and I was really interested to hear your remarks, especially about Mr. Unruh, because it is different from the theory. It is different from a general concept that not only was the commission Unruh's idea, but that he pushed it harder than anybody else. I just wanted to clarify what you really thought.

Sumner: Well, Tom [Thomas] Bane, who was chairman of--and this is interesting, because he doesn't have the same type of image now--of the Joint Rules Committee at the time of the beginning of the commission, was more involved than anyone.

Sharp: How?

Sumner: This was a project that he [Bane] was deeply interested in and fought hard for. Jim [James] Mills, who was then in the assembly, was deeply involved and fought very hard for this. Intellectually, they both liked the project. Again, Unruh was terribly important, but he was one of many. Certainly the members of the commission did not in any way feel that they were responsible to Unruh.

The person that had more to do than anyone else with the selection of the first members of the commission was John Busterud. He was the one that picked the names, and this was not an Unruh-dominated group, in the sense that they sure went against him politically on a lot of the issues. Hey, I hope the history isn't written that way, because it just isn't true. [laughter]

Sharp: Well, I think you're writing it now. [laughter]

Sumner: Really, if you were to talk to some of the commission members, especially somebody like, say, Marge [Marjorie] Spear, who is now in San Diego--she is a past president of the League of Women Voters,

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*Among several other documents found in the IGS files on the Constitution Revision Commission was a letter sent by Judge Sumner to members of the executive committee of the commission. Sent on 30 December 1964, this letter outlined discussions Judge Sumner had held with Hugh Burns and Jesse Unruh on the commission's work.

Sumner: [past] mayor of the city of Claremont, and a very powerful, bright woman--and tell her that Jesse Unruh was the only one that pushed for the commission--I think it would blow her mind.

We were not naive. That is one of the things that I'll get to later. We had a political power base of our own.

Sharp: Certainly. This is not a naive list of people.

Sumner: You don't tell a Joe [Joseph] Ball or a Herm [Herman] Selvin or a Ham [Burnham] Enersen--those people. To be sure, we needed the legislature, but, I must say, there was a pervading scorn of legislators.

Sharp: I noticed. [laughter] The subject of the ongoing relationship between the commission members and the state legislature, both assembly and senate, is quite important and I'd like to talk about it.

Sumner: Well, for example, we had one time when the question came up on whether or not the state budget had to pass by a majority vote or a two-thirds vote. Jerry [Jerome] Waldie marched in a bunch of legislators who didn't know what they were doing--they were the legislative members--to keep it so that it had to be a two-thirds vote.

Sharp: Section 12 of Article IV.

Sumner: Right. The members of the commission were convinced, after study, that you have a higher budget when you have a two-thirds vote requirement than if you have a simple majority. The fact is, the budget is written in conference, and in order to get the necessary two-thirds vote, you add to it. You don't take things out.

You add different people's little pet projects that are, some of them, just absolutely crazy. I mean, they're fiscally not at all responsible. In the California budget system, you can add things in the conference committee that have never even been suggested in the whole budgetary process, in the Ways and Means Committee, for example. So, you slip in and get Randy [Randolph] Collier or somebody to put in things.

Now, I use that as an illustration of the difference between the commission members and the legislative members. On the other hand, we recognized that we had to have good relationships with the legislature to get our proposals through.

Sharp: Sure. You couldn't get your proposals to the voters unless you went through the legislature.

Sumner: That's right. And you know that the commission kept going and we had a track record even after Jesse [Unruh] was no longer there.

Sharp: Yes. Let's talk just a bit about the appointment process. This list of members of the commission is a very well-known group of people. They're not laborers or just your everyday run of the mill people.

Sumner: Right. It's not a cross section of the public.

Sharp: Not really. It's not a cross section in any sense of the word.

Sumner: That's right.

Sharp: These are economic and community leaders from throughout the state.

Sumner: An elitist group.

Sharp: Now, who came up with that list?

Sumner: The first members were from John Busterud.

Sharp: He just submitted a list to the Joint Rules Committee, or--?

Sumner: Well, he was the one that put it together. Then Jesse [Unruh] and I had some real rounds. We started having some vacancies and Jesse wanted to put on some people who were not up to the job. In other words, people that had been great but were over the hill. Now, we could digest a certain number of those, but we had to have bright, able people who could write and read and think in order to do the type of work that we were doing. So, we didn't want any more retired vice-presidents from this or that, and this is where I did get into some real battles with the speaker's office.

Again, I had a very good relationship with Jesse [Unruh], and I'm not trying to knock him down, but to say that it was only his baby is just absurd to anybody that was involved in it. I mean, all you'd have to do is to see what we did.

Sharp: Maybe this is what you were just talking about; there were various categories of membership?

Sumner: Right.

Sharp: There were people like John Vieg, who was a political science professor, and then there were people like John Sproul, who was senior attorney for PG&E. Was there some sort of quota system?

Sumner: No. You really should talk to John Busterud probably, to see light on that particular group. I wasn't involved in the initial selection process, but my information comes to me from phone calls and discussions with John [Busterud] when he was trying to pull together the group and to make suggestions. What he was trying to do was to get a cross section. The feeling was, by those of us who were interested in this whole project, that it was very, very fragile, that we had to have representatives of different points of view and have their best shot, so to speak.

So, the utilities should be represented because they're an important factor in California politics.

Academia should be represented because a lot of people felt this was important, and, at the risk of creating a lot of enemies, they [the academic commission members] often proved to be a disappointment because they would fold under pressure. Then I began to realize that people in academia generally are not combatants. They are there because they are students and they aren't necessarily fighters for points of view. They love to look at things, but they won't get out there and charge when it comes to what they believe in, and they are more willing to make compromises than any politicians I've ever run across, as a group.

Sharp: I'll have to digest that one for a minute. [laughter]

Sumner: [laughter] Sorry!

Sharp: It's okay. [laughter]

Sumner: It may not be artful, but it'll be honest.

Sharp: Okay. I'll settle for being honest any day.

What Does the Constitution Have to Say?

Sharp: Now I'd like to talk about what I see as the progress of the Constitution Revision Commission and talk about the first period, 1963 through 1967. First of all, a couple of general questions. In one of your articles, you talked about--and this is not really as abstract as it seems--a concept of state government and the relationship between the legislature and the constitution.

Sumner: Right.

Sharp: Was there a common sense of state government among the commission members, what state government was really supposed to do?

Sumner: It developed. I think there was a consensus after we discussed it. We started out with things like this--John Busterud was one of those that suggested that there should be an organic code. In other words, we should have a state constitution and then we should have another superbody of law that would only be changed or amendable after certain qualifications.

We began to think about the role of state government, and I think, in our committee work, that the questions would continually come up. Do we have to have a constitutional provision that says that the legislature can create a school system? The answer is no, that need not be in the constitution. Well, how about taxes? Do we have to have constitutional authorization to raise taxes? The answer is no. Well, why not? Because states have inherent power. What does that mean?

We would go over and over and over this until slowly the role of state government, in my view, and understanding of the legal position of state government became more and more clear to an increasing number of the members of the commission. So, I think, by the time we were in our final stages, there really was a pretty good understanding of whether or not something had to be constitutional, and generally we recognized that very, very little had to be constitutional; just the structure, really.

Sharp: Now, this question of what really needed to be in the constitution, and what really didn't need to be there comes from the Tenth Amendment: "Whatever powers are not actually stated are reserved to the states."

Sumner: Right.

Sharp: So that means that if you can pass a law, a statute, then it doesn't have to be written in the constitution because you automatically have the power to write that statute. It seems to me that if not explicit, certainly implicit in almost every change that was made in all the articles, you're wrestling with that same question of, do we need to put it in the constitution or not?

Sumner: Right.

Sharp: And yet it's clear if you look at the 1879 California constitution that there was <u>tremendous</u> distrust--

Sumner: --of the legislature.

Sharp: --of the legislature. So, everybody said, "Well, golly, we'd better write it in the state constitution, or the legislature's going to run away with the ball."

Sumner: Agreed.

Sharp: And yet you're telling me, and I also found in the papers of the commission, that even though you were unwilling to keep everything written in the constitution, you still had some distrust of the state legislature.

Sumner: Well, given the make-up of the group, there were some people who just plain did not trust the legislature at all. There were others on the commission that--and I think you could say the commission as a whole--had more faith in the legislature than did the convention of 1879. But there were trade-offs and also, although we tried not to approach things politically, there was a recognition that some things were just about impossible to take out of the constitution. You don't have to have an oath of office in the constitution, but to take it out is very inflammatory and so on. You don't have to have the boundaries in the constitution. You don't have to have a lot of things that slowly were either left in or taken out.

After all, now, you're dealing with a body that isn't like an individual. The votes in some cases would be quite close, but the result would appear to be the decision of the commission, and therefore you tend to say, "Well, this is what the commission decided," even though it was by one or two votes within the commission. You see what I mean?

Sharp: Yes. Well, we can talk about this as we go through different articles, because I think it keeps coming up.

Sumner: Okay.

Notes on the Commission's Structure

Sharp: How did the commission members perceive your role?

Sumner: Well, you're asking me how they perceived me. I suppose the best answer is theirs. I can tell you how I <u>think</u> they thought of me. I was, first, chairman and it was a monolithic operation. Once I became chairman, I must admit, I decided that the only way it could operate would be to have someone in charge and there couldn't be too many group decisions. So, I appointed the committee chairmen,

Sumner: I appointed the members of the committees, I presided over the meetings, and [chuckles] in spite of great exhorting to publish or write out rules of procedure as to how we were proceeding, I called the parliamentary shots. There was really not too much dissension on that. We did some things uniquely our own. For example, we didn't require secondings of motions and things of that nature, and we set up our rules for reconsideration that were unique to ourselves. Those things were generally known.

I called the timetable. I set the dates for the meeting. I hired the staff. Actually, I hired the staff director, who was given tremendous authority, Larry Sipes, who really is a person you should interview, is now director of the National Center for State Courts in San Francisco. He was my last director. Dick [Richard] Patsey was the staff director before him. But Larry was the chairman or the staff director when we were at our peak, I'd say.

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Sharp: In terms of appointing people to the various article committees, did they submit a list of the articles they were interested in working on to you?

Sumner: No.

Sharp: Or did you just--?

Sumner: I did it and decided which articles should be taken up at what time. It sounds very monolithic [chuckles], but that's the way it was. I just couldn't see doing it any other way. We just never would get anywhere. My decisions were probably more affected by how my staff director felt than they were by other members of the commission, but I did have a close relationship with the members of the executive committee and they were very supportive. If something seemed logical to them, they were very happy to go along with it.

I think there was a general feeling too that we were making progress, and that was important, plus I was the one that had the closest contact with the legislature and was the one that would present the material to the legislature. I just assumed I had the authority to make the compromises on behalf of the commission and was given that authority by the commission.

Sharp: Were there some obvious leaders throughout the life of the commission among the commission members?

Sumner: Oh, yes. Definitely.

Sharp: Were these surprises?

Sumner: Well, not in a way. One of the surprises, if you will, I've already mentioned, that the academia types were not real leaders in innovative points of view and were more willing to buckle to the Fish and Game [Commission] people or the oil companies or the others than some of the other commission members, but I don't mean to say they weren't important. They were important, but to me it was a disappointment; I really expected more from that group [academia].

But one of the things that I found interesting is that for my own purposes I found out the party registration of members, but it was almost never that there was a party line vote. There were groupings of interests, and you'd usually find big business and labor together, except in a few areas. You would usually find that the League of Women Voters group, in a sense, were what I would call good government oriented, [looking to] what was really the best thing for the state, without looking to their constituency. We had five past state [league] presidents and, of course, these women had other qualifications as well. Because we did have a lot of other people--like the general counsel for the League of Cities [Richard Carpenter] and the general counsel for the [County] Supervisors Association.

Sharp: That's William MacDougall?

Sumner: Yes. They made no secret of the fact that they were very interested in their constituents, and that was good; we all knew this. So, the breakdown was more that way.

But there were, of course, individual leaders: for example, Burnham Enersen, who was past president of the State Bar, president of the State Chamber, a giant of a human being, and vice-chairman of the commission, chairman of our Article VI committee, which is the judicial article. He was a spokesman for a lot of the groups, so when he said something it was listened to.

On the other hand, people like Sig [Sigmund] Arywitz, who was very bright--he was chairman of our finance committee, and that provoked a storm [chuckles] when I named him to that role. Article XIII. But he was magnificent, a very bright, able, capable man, a real leader. So, we had individual leaders as well.

Sharp: Probably one of the most spectacular articles is Article IV, which, of course, became part of Proposition 1 in 1966. Article IV deals with the legislature.

Sumner: Actually, it was 1A.

Sharp: 1A, I mean. [Judge Sumner hands interviewer report] Oh, good. I'll copy down this name.

Sumner: Don't you have that? You don't have that report?

Sharp: No.

Sumner: You've got to have that if you're going to do this. That's our last report. There are six parts to it. Before you go, I'll have him pull together a copy for you.

Sharp: I don't know where all the papers are of the commission. Now, the Institute of Governmental Studies has a big file, but I realized when I saw those papers that they must be just a glimpse of what really exists on all the papers for the commission. I never saw this report.

Sumner: We made thousands of copies.

Sharp: There's probably a whole set of them up in Sacramento, either at the State Archives or somewhere else. But, as I say, your two interviews and the papers that I looked at so far are only the tip of the iceberg. They're just meant to be a glimpse into what the commission's life was, because that's all there seems to be time and money for, at least at this point.*

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*The State Archives in Sacramento has an extensive collection of papers from the Constitution Revision Commission.

IV THE COMMISSION: DISCUSSION OF ARTICLE IV

The Topic of Legislative Compensation

Sharp: Now, the rest of this interview, and the one tomorrow, are devoted to discussions of changes in various articles. I thought we'd just start with Article IV because I think it was the first one that everybody looked at.

Sumner: Yes, it was one of the first committees, right.

Sharp: It was maybe one of the stormiest ones, that and Article XII on corporations.

You were on the subcommittee to consider legislative procedures and compensation. The other people who served with you were Jack Beaver, Joseph Harris, Mrs. [Helene] Nemschoff, Donald Pfleuger, and George Rochester. And also at the meetings were a member of the legislative counsel (he/she was not named) and Assemblyman James Holmes. So, those were the people that you were working with.

Some of the discussion in the subcommittee centered on whether a flat increase in salaries should be put into the constitution or whether the legislature should determine its own salary. And, of course, the way it was written was that the legislature would pretty much determine its own salary, with certain limitations, and the recommendation for full-time sessions, which came to mean annual general sessions, was seen as justification for salary increase recommendations. Why did the subcommittee decide to allow the legislature to set its own salary?

Sumner: Because we felt that was the best approach, that salary changes shouldn't be a ballot question, that salaries shouldn't be frozen in the constitution, that if you elected a body to govern the state you could trust it to set its own salaries. We really followed the

Sumner: congressional model. We felt, especially those of us who had been in the legislature, that contrary to the public's belief, the legislature is sensitive to public attitudes about their own salaries.

You'll note that even today, in spite of the outcry about legislative salaries, I think a reasonable person would say that, given the job description, and if the salary is all that a legislator gets, the salary is nothing. The present salary is not even what a beginning lawyer would get in a lot of law firms.

Sharp: Now, the legislature had placed the pay raise issue on many ballots, many years before the commission considered it, with no luck. So, they were very interested in what you all were thinking about.

Sumner: Yes. It would be safe to say that some people supported the commission because they thought it was a way of getting a salary raise. A lot of the members of the press, especially the more cynical political writers, refused to believe that there was anything else in this package but that. I kept telling them, "You'd better look at it because there's just a heck of a lot more," but that's all they could see. It's typical of a lot of ballot measures; the press and public just don't look at the text.

Sharp: Tell me about some of the pressures from the legislature on the specific issue of legislative compensation.

Sumner: There was almost none from the legislature. The only pressure that I recall was the pressure to do something. Everyone had an idea. I felt strongly that we shouldn't use a gimmick. We shouldn't tie it to the average of the five most populous counties' boards of supervisors, or some of those other things that had been proposed.

Sharp: Were some people concerned about retirement provisions?

Sumner: Not particularly. You were dealing with a retirement program that would amount to $50 for every two years that you served, beginning at age sixty. So, that wasn't a big deal because a lot of legislators left after two or three terms.

Sharp: I'd like to ask you now about certain sections within Article IV not dealing with legislative compensation, but dealing with other topics. Section 5 was the conflict of interest section and I wondered what brought about the discussion of conflict of interest.*

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*This section, as many of the revised sections in each article, was renumbered later.

Sumner: Well, just that it was well-recognized then as today that there are tremendous conflicts of interest within the legislature and that this is a problem.

Sharp: There is one view that Section 5 was really pretty weak and was put in to satisfy people who were really upset that you had allowed the legislature to set its own salaries. I wonder what you think of that.

Sumner: I don't agree.

Sharp: Here's Article IV. [hands Judge Sumner text of Article IV]

Sumner: Oh, okay. This is different from what it is now.

Sharp: Right. I think that's the final--

Sumner: As approved by the commission.

Sharp: Right.

Sumner: Okay. That's good. Now you're speaking of the conflict of interest section?

Sharp: Yes.

Sumner: Okay. That was put in by the legislature.

Sharp: The conflict of interest section was?

Sumner: Yes.

Sharp: They put it in during the period of constitutional revision, or at another time?

Sumner: You see, the way we would work is that we presented our commission reports to the legislature and then the legislature would introduce it in bill form.

Sharp: Well, that's interesting that the legislature would put their own kind of revision in that touched on conflict of interest.

Sumner: Oh, yes. Well, they were concerned about the reception by the public of their proposals.

Sharp: Why didn't the commission make any changes in the matters concerning reapportionment?

Sumner: In '66, there were all kinds of lawsuits going on, and the one-man/one-vote decision was being enforced. The state senate was suing. They hired special counsel. We felt that to get involved in that issue would defeat us, that we would be viewed as taking a position one way or the other.

I and the others who were aware of what goes on in the legislature recognized that the revision project was very fragile. To get something like a revision package through is just incredibly difficult because you deal not only with a two-thirds vote of each house, but you also have to get the governor's office involved. The reason for that is that you have to pass accompanying statutes that pick up things that you've taken out, and the governor has to sign the statutes into law.

Changes in the Initiative Process

Sharp: Another element of the attempt to keep excessive words and sections out of the constitution is seen with changes in the initiative statute. There was a reduction of the signature requirement for initiative statute petitions from 8 percent to 5 percent, but the 8 percent requirement for initiative constitutional amendments was retained.

Sumner: Right.

Sharp: What all led up to this?

Sumner: Well, first of all, prior to 1966, there was a so-called indirect initiative process whereby you could have a ballot measure that would ask the legislature to consider a certain measure, and if they didn't, then it would go on the ballot. That had been used only once in the history of the state.

There was also the feeling within the commission, a strong feeling on the part of many members, that the initiative process to amend the constitution should not be allowed. There are only twelve states in the union that allow this, that have this.

My friends from Minnesota, when they hear about the initiative process, think we're mad. They say, "What is representative government all about?" Or, "Have a convention. But you sure shouldn't be able to amend your constitution through the initiative."

Sumner: We discovered, however, that the people of California view the initiative as tantamount to the right to petition for redress of grievances, even though they are two entirely different things. Because the initiative is the power of the people to propose legislation.

Now, the feeling on the commission was that we should do what we could to encourage people to use the initiative statute as compared to the initiative constitutional amendment. The best way to encourage this was to reduce the percentage of signatures necessary for an initiative statute, making it cheaper. The reality is that it costs money to get things on the ballot and most measures that go on the ballot are there because somebody buys the signatures.

So, we thought, "Well, we'll change the initiative statute requirement, encourage people to use it, [and] eliminate the indirect initiative because it has not been used. Then [we'll] keep the initiative provisions for amending the constitution at 8 percent." That's why we did it.

Sharp: Was there any discussion about possibly eliminating the initiative?

Sumner: Yes, definitely. But looking at the membership, you know that there are many special interest groups, and the economic forces in California are wholeheartedly behind the initiative. It was a lesson in growing up in politics for a lot of the commissioners when you'd hear some of the third house members say, "Look, we can buy our way in two ways. We can either buy our way in by financing the campaigns of legislators, or we can buy our way onto the ballot by buying the signatures to get on the ballot. Both are part of the political process in California. That's the reality. We aren't about to want to give up the option of being able to buy our way onto the ballot, because if we get that measure passed, we're sure of it, and we don't trust those legislators, and that's why we want to keep the initiative."

Now, this is the attitude of not only big business, but of labor and all of the groups that are behind the initiative process. I must say, I think that the people of California do not object to the system, by virtue of the fact that they accept it.

I remember, when I was in the assembly, one of the bills I tried to support was one that would outlaw the use of paid solicitors for getting signatures on initiatives. As I recall, we had about five votes, and that was it! We were just blown out of the water.

The initiative process is big business in California. There is evidence to the effect that some public relations outfits literally get things on the ballot in order to have something that they can fight for or against. I don't mean to sound so cynical, but this is the reality of California politics.

Sumner: So, you begin with those that want to be involved in the campaign, the media types. You carry it on through the people that have an interest, a special interest. You then go to the people, who don't trust the legislature, and therefore you get a Proposition 13.* Also you get a Proposition 20 on the Coastal Commission, when the legislative process, in the people's opinion, has failed; the legislature has not been responsive. This is the type of thinking that keeps the initiative process. I'm not saying it's wrong; I'm just describing the reality. So, just about everyone wants it for one reason or another.

The Appointive Power

Sharp: There was quite a bit of discussion about Section 13 of Article IV. Now, these sections may be numbered a little bit differently. Anyway, it says senators and assemblymen are not allowed to hold other offices than that office, and it seemed to be against the appointive power of the governor. I wanted to show you this two-page memo that I found that was sent to the commission members, discussing various alternatives about how this section should be worded and how the appointive power of the governor should be used or not be used, and there seemed to be a real target.

Sumner: No, this is just one of the--have you seen the background materials ever?

Sharp: Some of them I've seen.

Sumner: But you haven't seen the background studies for the different articles?

Sharp: I've seen a couple of the background studies. I saw quite a bit on Article XIV.

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*Proposition 13 was the Jarvis-Gann initiative passed on the June 1978 ballot. It was an effort to significantly reduce property taxes in California with the avowed aim of cutting out unnecessary state spending.

Sumner: Now, I think this is a reprint of a staff report. See, it was alternative one, alternative two, alternative three, and this is the type of thing we'd do--alternative four--presenting the alternatives.*

Sharp: Was there quite a bit of discussion that there had been much abuse by various governors of the appointive power and that's why this was being changed?

Sumner: No. It was not a change. This provision prevents the governor, for example, from appointing a member of the legislature to be director of finance. It wouldn't prevent the governor from appointing him U.S. Senator or to the Public Utilities Commission. Today, I don't think this has much effect, and it didn't really have much discussion. It's not a big problem. It's not like some of the things on judges.

Sharp: Okay. Well, we'll get to [that]. I think that's next.

It's interesting. One of the reasons we need to talk to people who were on the commission is because when you look at the papers of a commission, it gives a commission a certain kind of reality. It's typical of oral history that once you begin talking to somebody who was really there, the reality of that particular episode or experience is quite a bit different than the papers make it seem.

Sumner: Right.

The Fish and Game Commission and the Dilemma of Single-Issue Politics in the Constitution

Sharp: There's a little more on Article IV, but I think it concerns the Fish and Game Commission and Section 12, and I think that might take longer than you want to spend today.

Sumner: Well, let's finish what we can finish now.

Sharp: Let's finish with Article IV, then. I found some letters in the commission's papers. One went from you, and one came from the Fish and Game Commission. President Thomas H. Richards, Jr. of the Fish

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*This memo was dated 12 January 1965 and was sent from the staff of the Constitution Revision Commission to the commissioners.

Sharp: and Game Commission was concerned about the commission's proposals to modify Section 25-1/2 and eliminate Section 25-5/8 of Article IV. He said that these changes would have adverse effect on hunters and fishermen. It seemed to me that here was an instance of the commission's being concerned with something that really might better be part of statute rather than the constitution. I wonder if you could clear it up.

Sumner: No question about it.

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Sumner: Discussion of the fish and game sections was a baptism of a lot of members of the commission into pressure politics. In our preliminary remarks, I mentioned how some of the members folded to the Fish and Game Commission's needs. First of all, the whole section should have been statute. It doesn't have to be in the constitution.

Sharp: Well, the changes concerned revenue coming from the Fish and Game Commission.

Sumner: Yes. But that need not be constitutionally designated. One of the most sensitive areas of legislation in the state is fish and game. This Fish and Game Commission can get a thousand people into the capitol on any night of the week, with signs and loud noises. They'll fill your desk with mail. I'll never forget some of those hearings on steelhead fishing in the Sacramento River, for goodness sake, or hunting for deer; it's just wild.

Sharp: Why does the Fish and Game Commission have that sort of energy or people?

Sumner: Because there are a lot of people who are interested and understand the alternatives. People act as if today is the only time of single-issue politics. Not so. There have been single-issue politics as long as there have been politics. A lot of people are interested in fish and game; this is their recreation. If they get stirred up by the columnists who write about fish and game, they'll react.

I'll never forget, when we were debating this, Joe [Joseph] Ball, past president of the State Bar, a member of the Warren Commission, and a giant in the legal world, couldn't believe the temerity with which a lot of the members of the [Constitution Revision] Commission were approaching this issue.

He, of course, is a trial lawyer. He's used to the battleground of the courtroom and he's used to having people disagree with him openly and forcefully. So, he said, "I would appeal to your sense of reason, but it's clear to me that you've lost your sense of reason, so now I'll try your emotions, if you'll just bear with me." [chuckles]

Sumner: It was a big issue from the standpoint of interest, of pressure, of people being taken out to lunch, of commission members getting phone calls. Many of our people had never been subjected to this before, and to get two or three letters all of a sudden became very important to them. To get three or four phone calls, to get somebody editorially saying that they [the commission members] were crooked or that they were not doing what they were supposed to do, to get pressure from a legislator, was a new experience for many of our commission members, and they were horrified. They didn't really know how to handle it.

In later years, we looked back and agreed that when we got involved with the Fish and Game Commission a lot of the members lost their political virginity, if you'll pardon the analogy. [laughter] They really became of age! And it still is ridiculous to be in the constitution.

Sharp: Yes. It's such a clear example of single-issue politics.

Sumner: Oh, yes!

Sharp: I couldn't believe it when I saw it because it was so classic.

Sumner: Oh, yes. You see, we have these areas that you just can't touch, and this is one of them. We haven't been able, for example, to get out of the constitution the right of homestead, that there is a right of homestead. That doesn't mean a thing; it really doesn't.

Sharp: Not anymore. [laughter]

Sumner: I mean, what could you do with that? Could you sue somebody because of that? It doesn't mean a thing. It doesn't have to be in there; just like we did say, "There shall be a minimum salary for teachers." What does that mean? A dollar a year? It doesn't mean anything. It's there. We had to leave both of those [sections] in, though, because of pressure.

Sharp: I think that's very important to make clear that the commission had that kind of pressure to keep the constitution somewhat sacred and that there were certain sections that just had to be there.

Sumner: Well, and because they had been there before. I often, when talking to groups in other states or groups of academics who are interested in this whole process, point out that it's much easier to write a new constitution than it is to revise one, because when you revise one you're dealing with what I call the founding fathers' syndrome, that some great, wise person before your time, in a very scholarly fashion, sat down and after this divinely inspired revelation wrote out the section.

Sumner: Well, garbage. It quite often was somebody who was just succumbing to some political pressure or somebody who was semi-illiterate who wrote some of these things. I'm not saying that they're all bad. But a lot of the stuff, if you knew the origin of it, would lose its sacred status.

This is where my legislative experience was very helpful. I use to chuckle when people ask, "What's the legislative intent?" I think, "Gee, I remember the legislative intent. We came back from committee meeting. Three of the members of the committee were drunk. There weren't very many there. It was ten o'clock at night. Somebody offered a couple of words. Some of the people who usually cleaned up the wording were just too tired to fight anymore; so that's why those words are in there." Again, not disparaging the process, but that's the reality of how these things happen.

Sharp: Because these bills, the laws, the sections, and the articles are written by people rather than legends or some abstract individual?

Sumner: That's right, that's right.

Additional Thoughts on Article IV

Sharp: You mentioned, when we talked before, the hassle over the two-thirds vote needed in both houses for appropriations, which, I think, is part of Section 12 of Article IV.

Sumner: Yes.

Sharp: Some of the people who were against the inclusion of this two-thirds vote idea were Paul Mason, Helene Nemschoff, Totton J. Anderson, and Arthur F. Corey. This minority suggested that the budget bill not be included at all as part of Section 12.

Sumner: Yes.

Sharp: I wondered if you could elaborate more on that concern that the budget be free or freer of politics.

Sumner: Well, if it was not part of Section 12, then the legislature by rule could announce that it would be a majority vote, and it also would then take the same standing as any other--well, it would be the same as any other bill. In other words, the sections on how bills become law and the votes necessary are rather explicit.

Sharp: Besides what I've asked you about Article IV, what other major changes did the commission make in Article IV that I haven't asked you about?

Sumner: Now, do you want to talk about Article IV insofar as how it finally came out of the legislature, or out of the commission? They're two different things.

Sharp: Maybe we could talk about both.

Sumner: Article IV in its then form provided for annual sessions, but we limited the number--I believe you have it here--of days.

I'll never forget one meeting we had at the then Mirador Hotel in Sacramento with leaders of the senate, the assembly, and the so-called third house. There were representatives of the railroads, the utilities, the oil companies, the insurance companies, the unions--the people that run California. They were there with members of the senate; [Senator] Luther Gibson, who was critical at that time as chairman of the senate committee that would hear our proposals; and, of course, the speaker, Jesse Unruh.

Al Shultz, a lobbyist who was directly representing Standard Oil but was considered generally to represent all big oil--big oil, meaning the majors as compared to the independents. He said he would go for annual sessions without the limitation [chuckles], the railroads went along, and that's what happened.

We had provided for a continuous body for a two-year term with limited sessions, which meant that you could introduce a bill in January of the first year of the session and this bill would be alive for two years. The third-house people wanted a sine die [without delay], an absolute end to the session each year, and they were willing to go for sessions without limitation as to the number of days. This is the way it was ultimately written, and I kidded them about it later because some of them agreed that really what the commission had proposed might have been better.

They were worried about what's going on now and what I think is just an inherent part of the problem of a legislative body, namely that people wait until the end of the session and do so for very good reasons. It's not just sloth. That's the time to slip your turkey through in the maze of legislation. I learned that there is a time to present your bill. If you present it too soon, it will be picked to death, no matter how good it is. But later on, you can get it heard and out.

Sharp: Tomorrow we'll start with Article V and then talk about Article VI, both of which also were part of ballot Proposition 1A for 1966, and then we'll talk a bit about how these three articles became Proposition 1A, just that whole process. Then we'll move on to the second revision phase, '67 through what I think is really '72. You stop in '70 in your article, but because of the consideration of various other propositions, I extended it through '72.* So, we can talk about those two big sections tomorrow, I think.

Sumner: Okay.

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*For an excellent brief summary of the work of the Constitution Revision Commission, see Judge Sumner's article, "The California Constitution Revision Commission," included in the Constitution of the United States and the Constitution of the State of California as last amended November 17, 1972, published by the California Assembly in 1973, pp. 109-117.

V THE COMMISSION: OTHER BUSINESS IN THE FIRST PERIOD, 1963-1966

[Interview 2: October 26, 1979]##

Article V, The Executive Department

Sharp: Yesterday we got through the first major portion of what became Proposition 1A, so today I thought we'd pick up and talk about Article V and Article VI, the other big parts of Proposition 1A. Then we can talk about how these articles that you and the commission rewrote actually became Proposition 1A in 1966 and that entire process.

Article V, of course, deals with the executive department. As I understand the reworking, the revisions that the commission wrote, the legislature was authorized to allow the governor to reorganize essentially the executive branch of government, and that gave him quite a bit more direct control over his major area of responsibility, the executive department.

Sumner: Right. That's true.

Sharp: Was all of this related to Governor [Edmund G., Sr.] Brown's reorganization plan?

Sumner: No. It was a belief on the part of the members of the commission that was discussed. Again, our ongoing philosophy was that state government should be allowed to reach its greatest potential, and that the constitution shouldn't inhibit the good people in office from doing the best job possible. It was the belief of the members of the commission that the executive branch should be able to organize these so-called super agencies. It was, if you will, a combination or a combining of these departments. Now, this wasn't just [Pat] Brown's idea. This has been talked about in state government for as long as I can remember.

Sharp: A new provision was added--this was Section 10, I think--that authorized the California Supreme Court to determine when the governor might be unable to carry out his duties.

Sumner: That's true. This was really prompted by a news event that happened at that time. That was, the governor of Louisiana became disabled while in office, and the question was a national issue. What do you do with a person in a position of governor or president that becomes disabled in office?

We felt there should be an orderly procedure for the removal of that person or for someone else to step in, and that's why we arrived at the conclusions that we did and set up the procedures that we did. It was, I believe, a first in state government.

Sharp: The topic of Article V and the governor's office brings to mind, brings up, the question of the relationship between the governor's office and the Constitution Revision Commission throughout the latter's life. What was the relationship between the governor's office and the commission when Pat Brown was governor?

Sumner: When Pat Brown was governor, he personally was very supportive. However (I say this in all kindness) I don't think he really knew what was going on. I'll never forget, I had one incredible experience. Dick [Richard] Patsey was with me and he said he couldn't believe it if he hadn't been there. I think it was Dick, or maybe it was Larry Sipes. But, at any rate, we were in the governor's office and we were talking about revision, and he said, "Oh, by the way, what about a unicameral legislature?"

He [Governor Brown] got the governor of Nebraska [Frank B. Morrison] on the phone and said, "Hey, how is this thing working back there? What do you think of it? Would you like to come out and talk to these people? We have this organization that's looking into these things." It was just typical Pat Brown--good guy.

To my amazement, we were never really monitored by the governor's office in either the Brown or the Reagan administration. We just told them what we were doing. That was part of my job, frankly, to make sure that nobody thought we were doing something clandestinely or aganist them.

So, first, Pat [Brown] was terrific, with one exception, and this is a very important point on the use of a commission that's legislatively appointed as compared to a commission that's appointed by the courts or by the governor. You remember that 1966 was what we call a budget session year. We didn't have the annual sessions yet. So, the question of whether or not the legislature would be allowed to consider constitutional revision had to be put on special call.

Sumner: The state senate was very opposed to having constitutional revision on special call. They felt in some way that this would hurt them in their moves towards a battle against the reapportionment decision. They didn't want to be bothered with what they viewed to be complicated legislation. Many of them were serving their last term, because there just weren't going to be enough seats in northern California. So, they prevailed upon [Governor] Pat Brown to say no, he wouldn't call a special session.

With that, I went into action, calling Democratic leaders throughout the state, people like Roger Kent, who was the, I believe, [Democratic] state chairman at that time. Joe [Joseph] Ball had been the chairman of the [Pat] Brown campaign and he was on our commission. Here in Orange County, Sam Hurwitz, a prominent Democrat who'd been county chairman. Throughout the state, we rallied the people. This is where both Bob Monagan and Jesse Unruh were terrific. They just absolutely demanded that the governor put this on special call.

The governor reluctantly agreed, and then agreed that he would just put the legislative, executive, and judicial articles on; that's Articles IV, V, and VI. Of course, [Article] V is a combination of things like pardoning power and militia and so on that had been separate articles.

Sharp: What had been [Articles] V, VII, and VIII.

Sumner: We chose to interpret this to mean that it also would include Article III, which was the separation of powers article. No one challenged this. We then moved ahead and were able to get the measure on the ballot.

About this time, Hugh Burns was coming around too. Though he was supportive, and, again, he and I had a very good personal relationship, and he was particularly supportive when we got into the campaign phase, the state senate was less than interested in having this whole measure go on [the ballot]. It was a source of great disappointment to some of us because intellectually several of the senators--people like [Joseph] Rattigan and [James] Cobey and others who were heavyweights in understanding the legal political process--pulled off their support because of the apportionment crisis.

Sharp: Because it just looked like you were trying to put too much all together at once, or what?

Sumner: No, they [the senate] just didn't want to be bothered at that time. It was not a decision based on reason or based on reasonable considerations. They just didn't want to be bothered.

Why the Commission Had Political Clout

Sumner: This was the first time that the commission members and I became aware of the tremendous political power that the commission had. This became very important as we moved the bill through the legislature because, as you know, we had to get a two-thirds vote of each house.

When we hit the senate with [Proposition] 1A, I'll never forget; they rewrote it one night up in the Senator Hotel apparently and at the committee meeting announced what the senate version of this constitutional amendment was going to be. I had a number of the commission members present at the meeting, and one of these men who was present, Jim Cantlen, had been a very high official in the telephone company. I'll never forget his shock. He turned to me and he said, "Bruce, how long has this been going on?"

Well, the commission was made up of a lot of people who were principals of the lobbyists; in other words, they were the employers of the lobbyists. The lobbyists' natural native tendency is to be opposed to something. When you think about it, you can't blame them. You can't get blamed for something that doesn't happen. If something does happen, then you can be criticized. So, and this is what I used to tell groups, you ought to watch your own lobbyist. He's not necessarily working for you; he's working for himself. This is just human nature.

So, by having the people on high say, "Go. We are supporting this," the lobbyists then had new instructions, and this is exactly what happened in the case of the state senate, which was, of course, almost lobbyist-controlled. But we got [on the commission] the high officials in the railroad, the high officials in the oil companies, the high officials in the utilities, who said, "This is what we want." Those were the instructions that went down, and so all of a sudden we didn't have the problem that we would have had, which is really kind of interesting. I don't think a lot of people understand the role of the lobbyist, and that he has his own little problems internally, or how lobbyists generally will act.

Sharp: We have attempted to interview some lobbyists who we thought were important for the [Goodwin] Knight period and for the [Pat] Brown period, but have not been very successful in getting them to talk to us.

Sumner: Well, of course you haven't.

Sharp: We recognize them as very important influences, and yet they're elusive.

Sumner: Well, you get someone like Dick [Richard] Carpenter, who was the counsel for the League of Cities; now he's the lobbyist for them. Al [Albin] Gruhn on the commission was the president of the state [California Labor] Federation. You get people like Einar Mohn of the Teamsters, who was on the commission. You get people like Milton Teague, who was president of the Sunkist growers' group; he was on the commission. Jim [James] Cantlen of the phone company.* These were people that could tell their principals, or they were the principals. The insurance group was Jim [James] Crafts of the Fireman's Fund, who was a powerful man in the insurance industry, and the insurance industry in California, believe me, has a lot of clout.** So, when he got interested and said, "This is what we want," we began to get some movement. Bryant Essick of Smith Essick.*** Harry Bardt of the Bank of America was just a tower, a pillar, on this.****

So, all of a sudden, the word got down: "Lay off!" That's when we began to move, and that's when I really began to appreciate the political clout that we had. Individual legislators, I'm sure, were never really aware. It was too complicated a bill for the individual legislators, and so the question was, who is opposed to it? And if the opposition is down to a minimum, why, then we could go--maybe I'm taking too long on this answer. Am I?

Sharp: No. But I have a couple of questions I want to ask you before we get on to something else.

Sumner: You go ahead.

Sharp: Did this make you particularly satisfied, then, in the make-up of the commission?

Sumner: Well, yes. It made me realize, one, that having it legislatively appointed was important; and, two, you can't have a group like this be made up of just nice public members. Our commission was unique

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* Mr. Cantlen was retired vice-president of Pacific Telephone and Telegraph.

** James F. Crafts was chairman of the board of Fireman's Fund Insurance.

*** Bryant Essick was chairman of the board of Smith Essick, Inc.

****Harry Bardt was retired executive vice-president of Bank of America.

Sumner: in that the commission understood what it was doing. That might strike you as strange, but I'm convinced that there are many, many commissions--the Warren Commission is a good example--where I don't think the commission members, with a few exceptions, really knew what the commission report was. We had staff, but our commission knew what the commission had done, and the staff worked for the commission.

The commission also had political power of its own, and they represented the groups that run California. Now, you may say that's elitist and it's wrong, but that's the only kind of group that I think is going to be at all successful in pushing its way through the legislative process.

Sharp: Dick Patsey suggested that I ask you some of these questions about the make-up of the commission because he thought they were really crucial. He was right; talking about the make-up of the commission is obviously extremely important.

Sumner: Yes.

Contrasting Governor Pat Brown's and Governor Ronald Reagan's Approach to the Commission

Sharp: Before we get too far afield, I wanted to ask you how the governor's office related to the commission differently when Governor [Ronald] Reagan came in in early 1967.

Sumner: Well, Pat Brown was always very approachable. I could call up Pat Brown, especially when I was a legislator, even though we were of different parties, and you'd always get through to the governor. He just had that approach.

He [Pat Brown] was interested in the project, even though I don't think he totally understood it. He is the type of person, however, who has good feelings about things, and he's a leader.

I'm convinced more and more that a lot of people who are great leaders really don't understand what's going on in a way, but they get it done, like Earl Warren on the [United States] Supreme Court. He was the leader of the court, whether you agree with the decisions or not, but I don't know that he was such a judicial intellectual. I used to think that the two went together, and I don't think so anymore.

Sumner: Everybody liked Pat [Brown]. Pat was supportive. We could talk to Pat. We knew we could get his support in '66, when he was running for governor, and our goal was to get the TV endorsements by both Pat and Reagan. [Ronald] Reagan, on the other hand, also never understood the project. In fact, I asked him once personally--this was on a later one; I think it was either in '68 or '70--why they hadn't come out to endorse it, or why his office hadn't taken a position on it. He said, "Well, it's just too complicated, and we didn't understand it." It struck me that he [Reagan], as governor, ought to take the time to understand it rather than being busy running for president, but that's an old story in California.

Reagan's people always viewed the commission with suspicion, but to his credit, in my view, he never fought us. There were people around him who were very much for us--Bob [Robert] Finch, for example, who was lieutenant governor, although there wasn't a great love match between the two [Reagan and Finch]. Reagan I don't think felt he wanted Finch to kind of outclass him. Hugh [Houston] Flournoy was totally in our corner. Hugh and I are close personal friends. I swore him in when he was [state] controller, and I've known him for a long time, and he's a great public servant and totally understood what we were doing.

So, short answer: Reagan was passively supportive, never enthusiastic; I think, never quite understood what was going on. Brown was actively supportive, but not deeply involved. Neither governor did what I thought he should.

I thought Reagan missed a great opportunity, and I used to sing this song to the Republicans, "Here is a proposal that looks liberal, that wouldn't cost money, and it's like writing a new lease for your business. It's the thing to do. You can be for state government, for local government, and say, 'Let's make it work better.' That would be good for his image."

But he chose not to do that. Who am I to argue with success? [chuckles]

Sharp: I have a couple of questions about the political aspects of Proposition 1A for both Governor Reagan and Governor Brown, but I thought we might talk about that during the process section and now talk about Article VI, the judiciary article.

An Additional Comment on Article V

Sumner: There's one thing more I'd like to mention on [Article] V that was an important decision and shows an operation of the commission. There were a number of us that felt that the governor and lieutenant governor should be elected from the same party, and the question was raised as to whether or not the commission should make this part of its recommendations on Article V, and it was a very close vote.

This is one of the times that we kept saying, "The legislature is filled with the politicians and they'll decide the political question. Let's just do what we think should be done." But I think this was a political vote, feeling that it was just going too far to suggest that the governor and lieutenant governor run on the same ticket.

For your information, the format that we were considering was that you would have a contested primary. You could have an open primary as we have in California, but when you came to the general election, you voted the ticket. In other words, you would cast one vote for governor and that would include the lieutenant governor of the same party. So, for example, it would have been Brown/Dymally or Reagan/Finch or whatever. Later this was strongly supported by Bob Finch, who wanted a special constitutional amendment to this effect, but it just never got out of the legislature.

Sharp: Was that because you wanted to lessen the political aspects?

Sumner: Yes. There was some feeling that we just couldn't take on too much substantively.

Of course, our detractors kept saying that our job really was just to clean up the language and rewrite it. That wasn't our mandate. It never was intended to be our mandate. Anybody that looked at it knew it wasn't our mandate. But that's always the argument that we heard, that that's what our job was. Of course, if that had been our job, we wouldn't have had a commission; we just would have had to have some draftsmen.

Sharp: We'll talk about that aspect more at the end of the interview because I think that would make a nice summary, just to talk generally about the fact that you really were making substantive changes and you weren't just cleaning up the language.

Sumner: Well, that's obvious, and they were <u>huge</u> substantive changes.

Sumner: Another thing in Article V, which I thought you might ask about--we changed the order of succession to the governor's office. Prior to Proposition 1A, when Bob Finch was appointed Secretary of HEW [Health, Education, and Welfare], the lieutenant governor would have been Hugh Burns, the president of the senate. With Proposition 1A, with a vacancy in the lieutenant governor's office, Governor Reagan was able to appoint Mr. [Ed] Reinecke. Now, that's heavy. [laughter]

I used to say to the press people, who kept saying that this [Article IV] only had to do with legislators' salaries, "No, it doesn't! It has to do with huge things in every branch of government." Then, also, the enemy war crimes disaster sections were rewritten and cleaned up and put together, but I did want to mention that one area.

Sharp: Yes. I had forgotten about that.

Changes in Article VI, The Judiciary Department Article

Sharp: Besides the changes that we've talked about for Article V, were there real substantive changes made in Article VII, on the pardoning power; and Article VIII, the militia article.

Sumner: No, no.

Sharp: I didn't think so, but I needed to ask.

As far as the Judiciary Department is concerned in Article VI, there were some small specific changes made. From what I could see, one of the first changes was that the eligibility to a judgeship was changed from five to ten years of law practice in California.

Sumner: For superior court?

Sharp: Yes. Was that because you saw obvious abuses in someone who had become a judge with less experience?

Sumner: Just a minute. Let me check that. [tape off briefly while Judge Sumner consults documents] Yes, we changed that [judgeship eligibility]. There was some discussion. I remember it well. The feeling was that to be a superior court judge or a judge of the [state] court of appeals, you should be an experienced judge or attorney. I think it was Joe Ball, past president of the State Bar, who said he felt that even ten years really wasn't enough, that you shouldn't put people on the court who didn't have experience. That's been honored in the breach by our present governor, I'd say.

Sumner: In fact, there was at that time a consideration as to whether or not we should make service on the trial court a condition to be appointed to the court of appeals or to the supreme court.

Sharp: Just to get more experience?

Sumner: Because the best thing you can carry to the appellate court is experience as a trial judge. I must say, after fourteen years as a trial judge, my view is very strong that no one should be on the [state] supreme court who has not sat a day as a trial judge, because the job of the supreme court is reviewing trial court procedures. Or, at least there should be a limitation on the number of people who can be there without any experience. Our present supreme court is a classic example. Out of the present seven members, we have four who have not ever sat one day even as a traffic court judge, including the chief justice.

Now, you can point [out] that there have been great judges who've never had experience, but it's like saying that you could be a great brain surgeon and never have gone to residency in surgery. It's really more comparable than the public will let on or believe. That's what has created a tremendous problem in our courts. We have a lot of inexperienced people.

Sharp: Also, I think, in terms of voting in changes in the Judiciary Department article, there's a lot of mystery about the state judiciary. A lot of people don't even know what the different courts mean, or what the different courts do, or where the man or woman sitting up there as a judge comes from, or where they're going, or what their experience is.

Sumner: That's right. There's one thing in the political science area that I think is interesting, that a lot of people don't realize, and that is that the only elected office in the state that has any kind of a qualification requirement as a condition to running is the judiciary. You can be governor and not have gone through sixth grade.

Now, to be a judge, at least you have to be a member of the State Bar, although you can be a lawyer in California and never have graduated from law school, never have graduated from high school. You can be a supreme court justice and never have done either, and we have one. But at least you've had to pass the bar [exam].

Sharp: One of the other changes that was made in Article VI was, for instance, the prohibition of appointment of a judge to a nonjudicial office during his judicial term.

Sumner: No, this was in before, I believe. Really, it was kind of the "keep the Los Angeles judiciary out of the DA's [district attorney's] office" amendment. It's become important and is a heavy article that, you know, a lot of judges don't understand.

It means that even if a judge resigned his judicial position, he could not be appointed district attorney, director of [the Department of] Finance, or legislative liaison officer of the governor, which is what was attempted in the case of now Justice [Thomas] Caldecott in the [Governor Ronald] Reagan administration. There was a feeling on the part of the commission that we should keep the courts out of the political process and also prevent the type of thing that they were afraid would be going on.

The bad side of it is that if a judge, for example, quits or retires, for the term for which he's elected, which in the case of the court of appeals is twelve years, he can't be appointed a city attorney anywhere, can't work in any public employment. I think that's a bit of overkill, in my own view.

Sharp: So, what you did then with Article VI was substantively change and reform parts of the Judiciary Department?

Sumner: In the same way that we did others. Although the changes in the judicial article were perhaps not as profound.

Sharp: Had you seen some of these problems when you were on the Assembly Judiciary Committee?

Sumner: Oh, yes.

Sharp: And you had thought maybe these changes needed to be made at that point in your career?

Sumner: Yes.

Sharp: Was there then a sense of satisfaction that <u>finally</u> these changes were being written into the constitution?

Sumner: Definitely, but I didn't think we went far enough.

Ham [Burnham] Enersen was the chairman of the Article VI committee and the vice-chairman was Ralph Kleps. Kleps at that time was the administrative director of courts. The chief justice at that time was Roger Traynor and the judiciary was going very well.

Sumner: The California Supreme Court at that time was considered the best appellate court in the free world. We had giants on the court. There was great respect for the court. The Article VI committee did not believe that it could become politicized to the extent that it now has.

So, Kleps, representing the Judicial Council and the courts, and Enersen, representing the State Bar, had tremendous power and influence on the commission. The commission didn't go along with them in all these things, but they beat us on a lot of points, so changes were not made in the method of selecting the Judicial Council that some commission members thought advisable. In general the chief justice was kept in charge of all courts. Today this would be bitterly fought.

Strategy for Passage of Proposition 1A in 1966

Sharp: Now I'd like to talk about the process of how these three articles became Proposition 1A in '66. What essentially was your strategy for passage as far as the senate and the assembly were concerned?

Sumner: Well, the debate ranged and raged over whether we should have one ballot measure or several. And, of course, you always get people that say, "Well, let's take the controversial issues and break them out and have them in separate packages." The problem with that is that nobody knows really what the controversial issues are. What is controversial or might be politically controversial to one person is not to another.

The best illustration of that is not only 1A, but subsequent packages that passed. For example, the year that we had Article I on, which is the bill of rights in California. It was probably our most sensitive, potentially politically explosive measure. It had a controversial author, Ken Meade, of the Bay Area. Yet that particular proposal passed [in 1974] by a higher percentage than some of the other less controversial ones.

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Sumner: The legislators were very interested in the pay aspects, and there was a feeling that if we combined all these other good things with the legislative article, it all would have a better chance of passing the legislature. There were things in it that the governor's office wanted, that the State Bar wanted, and that the judiciary wanted, so that's another reason that it was one package.

Sharp: How did Assemblymen James Mills and Edward Elliott work for the passage of Assembly Constitutional Amendment 13 when it was in the senate?

Sumner: Well, in a rather unprecedented thing, I addressed both houses of the legislature, as the chairman of the [Constitution] Revision Commission, and we had support from the speaker's office, and we had support from [Robert] Monagan on the Republican side. So, there was tremendous push from the legislature, coming from the leadership. We kept saying to these people, "You asked us to do this, we did it, and so it's up to you to help put it through."

Not meaning to take anything away from Mills and Elliott at all, because they were terribly important, but it wasn't too difficult because there really wasn't any opposition. Any time opposition popped up, we'd meet with them and pretty well satisfy them.

Sharp: That was my next question. Who were some of the members of the opposition to the passage of ACA 13?

Sumner: I don't recall. I'm sorry.

Sharp: Okay. What were the political aspects of Proposition 1A, then, for Governor Pat Brown and, then running for governor, Ronald Reagan?

Sumner: It was a minor side issue. It wasn't really much discussed. It was kind of a good government thing. We were later dubbed "the quiet takeover." It was an astonishing thing to me that we met so little substantive opposition. I traveled around the state, talking to newspaper editors and on TV shows and so on, talking about what we were doing. We had really no significant opposition, and it just sailed along.

Sharp: Did you have much feedback from the public when the proposition campaign was really underway?

Sumner: I'm not sure that I know what you mean.

Sharp: Did you get letters from the public saying, "We don't understand this," or, "We do understand it"?

Sumner: Oh. We did, but not a huge number, given the size of California, and we always responded.

The League of Women Voters was a <u>tremendous</u> help. I can't overstate their significance because, of course, being statewide and being a bunch of very bright women and having made this a project, they were just all over the project. If someone had a question, it was answered. I and the other league members especially were just on call to go anywhere.

Sharp: Yes. I know Mrs. [Helene L.] Nemschoff mentioned that she went out and spoke, trying to just define what the commission was all about.*

Sumner: Oh, yes. And the other women's groups too. We had Mrs. [Earl] Shoesmith of Sacramento who was a past president of the California Women's Club. So we had the women's clubs behind us. They [the CWC] made that a project. [Mrs.] Ruth Church Gupta, who was the lobbyist for the Business and Professional Women, got the BPW behind it and made it a project.

Then we had, of course, Milton Teague, who not only was the president of Sunkist Growers, he became president of the State Chamber [of Commerce]. I'm not sure which year he was president of the chamber, but we got the chamber endorsements.

So, again, the membership of the commission was tremendously important in getting endorsements from constituent groups. It shows that in a commission like this you have to have members who are powers within the state. You can't just get sixty nice people who know what they're doing.

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*Mrs. Helene L. (Joel Y.) Nemschoff was a member of the Constitution Revision Commission. She was executive director of the Volunteer Bureau in San Francisco and very involved in the League of Women Voters.

VI THE COMMISSION: PHASE TWO, 1967-1972

A Variety of Changes in Article IX, on Education

Sharp: Now, on to the second phase of revision. This is basically 1967 through 1972. This period is a little harder to talk about, I think, because there were so many different ballot propositions containing changes in the constitution, whether it was 1968, 1970, or 1972.

Sumner: Yes.

Sharp: So, I thought we'd just talk about five different articles, just to use them as important examples of the commission's revision work.

Sumner: Okay.

Sharp: The first article that I thought we should talk about is Article IX, which, of course, is on education. Now, changes in this article became part of Proposition 1 in November, '68, but Proposition 1 didn't pass then and Article IX didn't show up again, I don't believe.

Sumner: Right. Well, it has shown up in part in some of our suggestions and subsequent amendments to Article IX. This failure of Proposition 1 was a disappointment to me. First, the reason it didn't pass. We [the commission] had this concept that the superintendent of public instruction should be appointed by the members of the State Board of Education, and the legislature changed our proposal so that no one was happy with it.

Their change in our proposal was that different methods of selection of the superintendent should be determined by the legislature when and if it wanted to. The legislature could make it an appointed position.

Sumner: People don't trust the legislature. Appointment of the superintendent was a hard concept to sell. It's difficult for some people, apparently, to understand that if you're going to have a board making policy, the executive officer of the board should be appointed by the board.

I used to use the illustration that a city council is elected to make policy and they appoint a city manager to carry it out. Well, if the State Board of Education is supposed to make policy, they should be elected, and the superintendent of public instruction should be appointed by them to carry out their policy.

Instead, we have this weird situation where we have a state board appointed and we have an elected superintendent of public instruction. As you may remember, Max Rafferty was the superintendent at that time. He was very political. He kept saying, "Well, I have a mandate from the people," and he was right. The board was appointed by [Governor] Pat Brown, and the board and the superintendent had totally different philosophies.

So, we felt that was wrong, but the public didn't buy it. I think that was the one area that hurt us the most in that ballot measure.

Sharp: Section 9 in Article IX is the section that deals with the powers of the University of California. There was, it seemed to me, some genuinely substantive discussion about whether or not Section 9 of Article IX should be changed.

John A. FitzRandolph was the staff attorney for the Article IX committee. He wrote a memo saying that the discussion by the commission of changes in Section 9 would be fundamental and could involve a change in the powers of the University of California. I wondered if you could tell us about any substantive change.

Sumner: I really don't remember all of those changes. I know that we did talk about changes as far as the Board of Regents was concerned: the terms of office for the board, who they should be.

As you know, we have this weird situation that the president of the Mechanics' Institute of San Francisco was on the Board of Regents automatically. Things like that were just, we felt, ridiculous.

There always has been a question about the funding of the University of California, whether they should have the control that they presently have over their own budget. I think the general feeling was to leave it that way because there was more trust in the university than there was in the legislature.

Sharp: In one of your articles, you were describing the considered changes in Section 9 of Article IX, and you wrote that the commission wanted to wait until it had the outcome of a study done by the legislature on higher education, and you didn't name the committee or the study.* I wondered if you remember what that was. Was it the Jesse Unruh and Hugh Burns Committee on Higher Education?

Sumner: Yes.

Sharp: I don't know if this was a large issue in your discussions of Article IX or not, but you received quite a few letters regarding changes in Section 15. Section 15 had to do with, I think, some of the financing of some of the private libraries in private schools in California.

You got a lot of letters from the Huntington, from the California Academy of Sciences, the California School of Mechanical Arts, and some other schools, who seemed to fear for their lives if they were taken out of this section.

Sumner: The Huntington Library was in the constitution, which is totally ridiculous. It's a good illustration of people who have their little pet projects that are constitutionally recognized. These institutions become paranoid when you suggest that it just is inappropriate to have them there, and it was and is.

But these people all have clout, and the people who are contributors or supporters really don't understand the whole picture, so they are easily stirred up.

Sharp: So, that's just another example of the private pressure whom you heard from?

Sumner: It's just like the Fish and Game [Commission], really.

Sharp: Those are all the questions that I have on Article IX. I just wanted to highlight it because it's an instance of where the commission did work, but it couldn't--

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*See "Proposition 1, The Second Phase of Constitutional Revision in California," Orange County Bar Association Bulletin, XI (Sept., 1968).

Sumner: It's in one area where I think we did good work that was not accepted. Our lower education provisions, by and large, have been enacted. On our higher education--I think we had a lot of the answers.

It's an illustration of another thing too. I have this theory, and I think history bears me out, that the time to do constitutional revision is when the section in question is not in controversy. I think you can do a much better revision job.

If you remember, in the '60s, the University [of California] was a source of tremendous controversy because of the student riots and so on. There was therefore an intense public scrutiny and interest based on what was going on then in current events.

For example, dealing with the governor's office. We didn't have the problem of a disabled governor in office, so we weren't talking about Ronald Reagan, or we weren't talking about Pat Brown. We were talking about things in the abstract, with a problem we had seen someplace else. The proposal didn't have a lot of political sex appeal, but potentially it was tremendously important.

That's the time you can do your best job and usually a more successful job because you don't get these emotional arguments.

Changes in Article XII: The Powers of the PUC

Sharp: I would like to move now to talk about Article XII, which deals with corporations and public utilities. Changes in this article were also part of Proposition 1 in 1968. Since Proposition 1 failed to pass at that point, Article XII became part of Proposition 3 in 1970, and failed again. Finally, it became Proposition 10 in 1972 and it passed at that point. Article XII, to me, had one of the more fiery discussions during the commission; at least it looked that way from the commission's papers that I found.

Sumner: Well, you have this concept in California that the Public Utilities Commission is going to protect the people from the utilities, which is just patently not true. You get papers like the [Sacramento] Bee, the McClatchy chain, who think the Public Utilities Commission is kind of the safe harbor for the citizenry.

It was always a mystery to me that they couldn't see that the PUC is a very, very political body controlled by the governor, and that if you have a liberal governor, you're going to have one view of the Public Utilities Commission, and the appointments will be that way; if you have a conservative, it would be another.

Sumner: The fact is that the utilities themselves literally name some of the members. They do. I know this for a fact. The phone companies name certain people. The utilities, like PG&E [Pacific Gas and Electric] and the Edison Company, name, literally, members of the commission, no matter who's governor.

This [political fact] is something that we just couldn't get through to the media. If they analyzed it, they could figure it out, but they have this editorial reaction that, "No, we've got to keep the PUC as it now is because it's going to protect the little guy."

It's comparable to the usury sections [in the constitution] with its rip off of the small person. [Judge Sumner later added the following passage.] The usury sections really only apply to the individual persons. The lending institutions are exempt! So if a person sells a home and wants to take back a second trust deed, or a first, the interest is limited to 10 percent. For a bank or savings and loan there is no limit. This has recently been changed somewhat. But we could not convince the public that the law that was heralded as being for their protection was really a vehicle to keep individuals out of the money lending market. [transcript resumes]

Sharp: Let me just highlight it from some of the research that I did. Barry Keene was attorney for the Article XII committee, and in a statement to the Article XII committee in late '66, Keene said that the economic community of California was really affected by the powers of the PUC. He said that very basic changes were needed, and he seemed to imply--and only imply, really--that the PUC needed to be trimmed in its power. For instance, he said only the [California] state supreme court had the jurisdiction to review or annul a PUC order, but it was difficult to do this because any state supreme court review was only heard by PUC members, and PUC findings and conclusions were final.

The basic question seemed to be, from what he was saying: Does the PUC need constitutional insulation from legislative and other political pressures? Was there some basic feeling generated in the commission's work meaning to limit the power of the PUC somehow?

Sumner: You have asked several questions in one. Yes, the PUC should be insulated from the legislature and governor. No, there was no attempt to limit the power of the PUC. Personally, though, this was not a commission recommendation.

I feel that the membership of the PUC really could be judges of the [state] court of appeals sitting there on rotation, drawn by lot. If you're going to have a public utilities commission, certainly these justices are capable of understanding these provisions, just as we are in all the other junk we do as judges. But this plan would take it out of the political arena and really make it a public utilities commission rather than a governor's utilities commission.

Sharp: You yourself had some pressure from people like Everett C. McKeage, who was former president of the PUC and former chief counsel of the PUC. He wrote you a letter in early 1967, telling you essentially not to mess with the PUC's authority as it was already outlined in Article XII.

Sumner: I guess I'd forgotten that, but it sure didn't bother me. I've been told that by a lot of people about a lot of things, and it would only spur me to "mess" with it. [chuckles]

Sharp: Then, to bring it all together, what did the commission do to the PUC in its changes in Article XII?

Sumner: Well, now I'd have to refer back to our report.

Sharp: Because I didn't really understand the changes.

Sumner: Okay. Why don't we go off the record? [tape off briefly while Judge Sumner consults commission report]

The first thing that we did was to delete Sections 1 through 16 [in Article XII] that pertained to corporations, feeling that those were not matters that should be in the constitution, were unnecessary. In other words [quoting from deleted section], "The legislature shall have the power to organize corporations." They have that power; you don't have to say it. So, this was a classic example of a constitutional use that was ridiculous.

Next, as to the PUC, we really didn't make any other changes. The existing constitutional powers of the commission were retained and that was it. We really didn't make any big changes in our proposal.

Sharp: So, even though there was some discussion of need for substantive change in the powers of the PUC, there wasn't any, not really.

Sumner: That's right, that's right. They beat us.

Sharp: There are more isolated things that I could ask you about Article XII, but I think I've gotten the basic outline of what you think. I think we can just go on now.

Sumner: Okay.

Article XI, Local Government Strengthened

Sharp: Now, Article XI, on local government, also had a complicated history.

Sumner: Yes. [chuckles]

Sharp: It failed as part of Proposition 1 in '68, but then it became Proposition 2 in 1970 and passed at that point.

Sumner: In June, right.

Sharp: And you think that the changes made by the revision commission in Article XI were one of the most important achievements.

Sumner: I do.

Sharp: Why?

Sumner: First of all, Article XI was just a mess, just a terrible hodge-podge, just terrible! It was one of those articles that really was hard to understand. It didn't make sense. It was contradictory.

The opponents of change said, "Well, the courts have interpreted a lot of this, and therefore we shouldn't change it any further." Of course, to me, that's garbage because it depends on who's on the court. You can get another court that will change, and increasingly courts don't have any reticence to change even their own decisions.

So, the new Article XI spelled out, in some cases, what we believed to be existing law but was not clear from the article. So, it was a clarification and a statement of existing law.

Also, we had some conflicts among cities, utilities, unions, and counties. In fact, we had some special meetings to resolve this. I was tremendously encouraged by the fact that we sat down with the special interest groups and reasoned it out and came up with a suggestion and were able to get it into language and get it adopted, so that now the local government article makes sense.

Sharp: Generally, it seemed that the way Article XI was rewritten, local government was strengthened.

Sumner: Yes.

Sharp: There were people like Richard Carpenter, who was general counsel for the League of Cities, and William MacDougall, who was general counsel and manager for the County Supervisors Association, on the commission. Are these the special interests whom you were talking about, who sat down and said, "Let's work it out"?

Sumner: Yes. And you asked about having people like [John] Sproul, the younger Sproul, of PG&E, on the commission. He was on the commission. He was a senior staff attorney. He was also a believer in what we were doing, and therefore, again, in his position, he could talk to PG&E and the other utilities. They trusted him. They didn't feel that this was some mysterious takeover. We had Al Gruhn and Sig Arywitz and Einar Mohn from the unions, the labor movement. They were on the commission. We couldn't have effected the compromise, I don't think, without that type of help.

Our chairwoman was Charlotte [Mrs. William] Irvine of Palo Alto. She did a magnificent job, a past state president of the League [of Women Voters]. This was not, in a way, her bag, and I chose her for that reason. I wanted a good chairman and a strong person and one that was respected for integrity and intelligence, and she had all of that.

Sharp: Could you speak just a little bit more about the opposition to changing Article XI?

Sumner: Really, the opposition were people that wanted to keep it vague and ambiguous because it suited their political or their economic interests to have it that way. There are sections, some things that we did, that we changed, and the legislature put it back in the ambiguous language.

If you were to ask anybody and get an honest answer from them, they would tell you privately that they wanted to retain the ambiguity because they felt the battle was still going on, and they didn't want the commission to resolve the battle and give an answer. Now, that's a political reality, and I accept that, in spite of my idealism; I know that that is the way the real world works.

Sharp: Were there specific names of people who were opposed to this, either in the senate or in the assembly, for this reason?

Sumner: Oh, no. No, we didn't have significant opposition. You see, again, to the average legislator, if he knows that the cities are for it, the counties are for it, the unions are for it, and the utilities are for it, that's all he needs to know. It's terrible to say about legislators, but legislators won't read the bill and don't care, most of them. They're very proud; the non-lawyers will often stand up on the floor and say, "I'm not a lawyer, so--." And that gets points. I'm sorry, but that's really the way it is, if you've ever watched the legislature in operation. [chuckles]

As a member [of the legislature], the most significant asset I felt that I had was my training as a lawyer, because lawyers deal with law, and I was trained to read statutes.

Article XIV: Water and Water Rights

Sharp: Now, Article XIV is the article on water and water rights, and this became part of Proposition 10 in 1972, but your discussion on it actually was much earlier, mostly in 1968, I think. What changes did the commission want to make regarding water rights in California?

Sumner: We just wanted to clarify it.

Sharp: Clarify what?

Sumner: The language.

Sharp: There was some discussion by private agencies--or pressure groups, anyway--that you wanted to do quite a bit more than just clarify the language.

Sumner: Yes. But we satisfied them, I think. As I recall, we didn't have any trouble. Water lawyers are just notoriously nitpicky. Their lawsuits go on for years and years, and they cost thousands and thousands of dollars.

Sharp: Well, I think water in California is always a pretty sensitive issue. When anybody talks about it, you know, people sort of see red because that's what makes the whole state work or not work.

Sumner: That's right.

Sharp: For instance, there was this set of minutes.* [shows Judge Sumner document] I don't know if you ever saw it. It's a really interesting document because it shows that there was quite a bit of private pressure from groups such as the Metropolitan Water District in Los Angeles to make certain changes.

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Sumner: I don't recall it.

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*These minutes are from an Article XIV committee meeting held in Fresno on 23 October 1968. Representatives from the MWD and the district attorney of Contra Costa County were among those groups present at this meeting making recommendations to the committee regarding possible changes in Section 3 of Article XIV.

Sharp: I wondered if you knew of pressures from the Metropolitan Water District or other water groups to write certain things or not write certain things into the constitution while you were discussing possible changes in Article XIV.

Sumner: I don't know of any. I do recall, however, that we felt that this was such a sensitive area that we should be very careful in what we recommended, and we didn't, therefore, get involved in great controversial changes.

Sharp: Did the question of the 160-acre limitation on the provisions of supplying water to irrigate land come up?

Sumner: Yes, it came up, but that's a federal limitation.

Sharp: It is.

Sumner: And we would not have any ability to affect that.

Sharp: Section 4 in Article XIV talks about insuring federal limits to try to control water in California, and I don't really understand what this section was actually trying to do. I wonder if you could tell us about what the commission's thinking was about the federal government and somehow controlling water in California.

Sumner: Things like that we just accepted as a fact.

Sharp: In the discussions of the Article XIV committee that I saw, there was the concern you mentioned about just straightening out the language and taking out sections because they didn't mean anything. They could be made into statutes. But Section 4, because it dealt with the federal government and what it could or couldn't do to control water in California, was left in, and I just wondered why.

Sumner: Well, I don't recall the discussions within the committee, of course. But I guess I would refer you to the summary of recommendations of the commission, and it said, "Following extensive deliberations concerning the provisions of the existing article, the commission decided to recommend no revision of these provisions."

A Note on the Commission's Procedures and Staff

Sumner: We talked about all these things in every case and that was, of course, part of our process. You see, we haven't discussed that, but how you attack the problem of revision is very significant and important, and knowing what are you going to do when you look at it, what are you looking for.

Sharp: Well, let's go ahead and talk about that now.

Sumner: Okay. When we first started, the question was: What articles are we going to revise, and how are we going to approach revision? We first dealt with a lot of material, and then we decided that we would hire experts to do a review of the article in question and to point out historical background, raise questions, and point out problems that have arisen. One of the best such studies was done by Arvo von Alstein, who's a very prominent law professor and writer, then at UCLA law school, and now, I think, at the University of Utah. He did a magnificent background study on Article XI.

Then the committee would be appointed, or usually at about the same time, by me, and all the members would, of course, receive the background study. We then would appoint a staff person to work with each committee, and the staff would augment the background material.

The committee received input and comments. We had a huge mailing list; we'd mail to everyone interested and those that we felt should be interested. We wanted to be sure that no one would be able to lie in the weeds and then say, "I don't know anything about this." So, we made sure that everyone who was concerned or should be concerned got all the material.

Sharp: Do you mean private agencies as well as legislative--?

Sumner: Private agencies. Oh, yes. Legislative, we cared less about, frankly. Legislators just react to these things. It's the agencies, it's the water districts, it's the school boards--I mean, the people who are involved in the process. They are the ones that contact their legislator and say, "What's going on? We hear rumblings that somebody's affecting our lot."

So, the background studies reflected not only staff work, but also input.

All right. We discovered that our staff could do better work than almost anyone that we could hire. So, as we came further along, the staff itself would do the background study and then augment it with further studies. We came to feel [and] I believe that we had the best staff of lawyers in state government in the country, probably the best staff of lawyers in the country for its size and for what we were doing, because they were really all very interested, very bright people. This is to the credit of Larry Sipes, who was the one that recruited most of these people. We had experts in tax and all phases of government.

Sumner: That's where the background studies come in. To me, one of the real tragedies and I tried my darndest--we had boxes and boxes of extra background studies and we turned them back to the legislature. We're one of the few commissions in the world that voluntarily went out of existence and then said to the legislature, "Hey, terminate us." We turned all the material over to them, and we warned them that it was terribly valuable and that they should keep copies, since these things had been accomplished. It wasn't just a case of a past study, but something that had been achieved. But I think they dumped a lot of it. They had tons and tons. I had a whole basement full, in San Francisco, of everything. I mean, boxes and boxes of copies of the background, because we had requests from all over the country and we would keep sending out this material.

Sharp: I'm going to try to find out from the State Archives in Sacramento just what is there.

Sumner: We turned a lot of the material over to the legislative counsel, and the legislative counsel made copies of a lot of things. Then they turned it over to the State Archives, but the archives are not very well kept, and I know that in a couple instances legislators have asked for copies of things and never returned them. I have a verbatim transcript of all the proceedings, and I think it's the only one that's extant now, and a lot of the other studies, the background studies, are gone.

Sharp: Oh, that's scary! [laughter]

I think we could move now just to a general discussion, to try to wind this interview up, of the question of substantive change in the constitution and reform versus only modernization of the document.

Sumner: Well, our mandate was to make substantive proposals and, as I've said, if that wasn't our mandate, then there shouldn't have been a commission. All you'd have to do is turn it over to either the legislative counsel or, if you want someone else to do it, a group of people who can write legal things, and say, "Put this in better language." I would like to talk about language, if I may.

Sharp: Go ahead.

The Question of Clear Language in the Constitution

Sumner: I felt that one of our most significant achievements, but it's not been followed, was the language that we used. We kept saying that we were going to try to put things in clear language, simple language.

Sumner: We started with a goal of the eighth-grade student. One of the interesting things was that the lawyers of the group applauded this and the academia were shocked. In terms of things like saying, "There is a legislature." They wanted to have it, "There shall be..." Well, there is, and so let's not say "shall be." We went to the present tense; they wanted the future. They soon gave in a little bit and got caught up in this.

I've often used the illustration, in talks, of the provision concerning the capital being in Sacramento. Incidentally, that doesn't have to be in the constitution, but it's one of those traditional things that's been in it because it's been a source of controversy in California. The language we ended up with is, "Sacramento is the capital of California." Now, before, that had been more than forty words of legalese garbage.

We tried to get rid of foreign phrases. We didn't use the words "judge pro tem" or "pro tempore"; we said "temporary judge." We didn't talk about a plea of nolo contendere; we talked about a plea of "no contest." We didn't talk about justices of the supreme court; they're judges, although the title "justice" seems to persist. We didn't talk about district courts of appeal; we talked about courts of appeal.

What I'm trying to say is that we tried to use simple language, get rid of the "such's," the "said's". I feel that the word "said" should be stricken. There's no need for the word "said". You're talking about "the". We tried to put things in simple language and short sentences. That's hard to draft, but that was what we hoped to leave as our legacy.

That's why you just despair when you read things that are like on the ballot in November of '79. I tried to read that recent Proposition 1, and the language is just awful!

Another thing that made the [Constitution] Revision Commission unique was the drafting committee. It was chaired by now Justice Frank Newman. On that committee were Ralph Kleps, who was former legislative counsel; Mrs. Lauffer Hayes, a past state president of the League of Women Voters, who at that time was on the school board in Piedmont; Paul Mason, the author of Mason's Manual on Legislative Procedure; for a while, Herm [Herman] Selvin, a past member of the State Bar Board of Governors, the Law Revision Commission member, and an eminent appellate counsel; and myself. We also would always have the chairman of the committee whose article we were considering.

We did, in my opinion, remarkable work, and this was done by commission members. Now, what makes the commission somewhat unique, along with some of the other factors, is that the commission members

Sumner: wrote the language. Then the drafting committee would bring the language back to the full commission and say, "This is our language," and the full commission would have to approve or disapprove. Many times, in drafting, we would find a problem that hadn't been resolved, so it was a way of double-checking. The staff would participate in discussions, but really, I think, both Dick [Patsey] and Larry [Sipes] would say that the commission did draft its own language. It was hard work, but, to me, it was one of the most exciting things I've ever done.

Sharp: I think that's all, except for me to ask you if there are some large, gaping holes in what we have not discussed, in terms of various articles and changes in the articles, because, as I say, my research has to be sketchy. But have I missed anything?

Sumner: I don't think there are any large, gaping holes. Why don't you cut it [the tape].

Sharp: Fine. Thank you. [tape turned off, then on again]

Final Comments on Changes in the Legislature

Sumner: The general quality of legislators has improved as a result of what we did in Article IV, and that was one of our principal incentives, to change the legislative process and the quality of legislators. I've concluded that we got a mixed result. I think we had to go to an annual session.

One thing that has happened that has distressed me and I'm not sure how to deal with it is that because we now have legislators who are professional legislators, for many their mission in life is to be re-elected rather than to do a jood job as legislators. The cronyism has accelerated from my days. When I was on the [Assembly] Judiciary Committee, for example, and someone would come in with a dumb idea for a branch court in their county, those of us on the committee would recognize it as a dumb idea and not accept it, rather than say that the county of this legislator is his fiefdom. To be sure, there were those who traded votes a lot and would not want to take on a colleague, but we prided ourselves on having a system that was good for everyone in the state, and there wasn't as much worry about getting along with somebody else in the legislature as there is now.

This, I think, in a way, was a product of the turnover. Many, many members of the assembly would stay two or three terms, as I did, and then leave, but I think we got a lot of good legislation from

Sumner: that. A lot of legislators think that the only people in the world that understand legislation and the legislative process are members of the legislature. I've heard of this from them. Several of them expressed amazement that the members of the commission seemed to understand state government. I mean, they thought they were the only ones that did.

So, I think that under the old system we had some legislators that are much better than almost any we have now, but the general quality has improved. Does that make sense?

Sharp: Yes, it does.

Sumner: We had some real stars, some brilliant, marvelous people. We also had some really bad ones who were ciphers, who probably couldn't be elected today. But the stars carry it, and so we did end up with some really good things written and done by people that really understood what they were doing and did it because they believed it was best for California.

I guess I'm a little bit dismayed at the anti-law attitude that a lot of people have about legislators; not that every legislator should be a lawyer, but it sure helps because that's what you're dealing with, laws, and if you don't understand your own bill, should you be there?

Sharp: I see what you mean. Thank you very much for sharing your views with me.

Transcriber/Final Typist: Marilyn White

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Amelia R. Fry

Graduated from the University of Oklahoma, B.A. in psychology and English, M.A. in educational psychology and English, University of Illinois; additional work, University of Chicago, California State University at Hayward.

Instructor, freshman English at University of Illinois and at Hiram College. Reporter, suburban daily newspaper, 1966-67.

Interviewer, Regional Oral History Office, 1959--; conducted interview series on University history, woman suffrage, the history of conservation and forestry, public administration and politics. Director, Earl Warren Era Oral History Project, documenting governmental/political history of California 1925-1953; director, Goodwin Knight-Edmund G. Brown Era Project.

Author of articles in professional and popular journals; instructor, summer Oral History Institute, University of Vermont, 1975, 1976, and oral history workshops for Oral History Association and historical agencies; consultant to other oral history projects; oral history editor, Journal of Library History, 1969-1974; secretary, the Oral History Association, 1970-1973.

Gabrielle Morris

Graduate of Connecticut College, New London, 1950, in economics; independent study in journalism and creative writing; additional study at Trinity College and Stanford University.

Historian, U.S. Air Force, documenting Berlin Air Lift, other issues of 1945-1952; public relations and advertising for retail and theater organizations in Connecticut; research, writing, policy development on Bay Area community issues for University of California, Bay Area Council of Social Planning, Berkeley Unified School District, League of Women Voters.

Interviewer-editor, Regional Oral History Office, The Bancroft Library, 1970-present; coordinator, Government History Documentation Project, 1979-present.

James H. Rowland

Holds B.A. from Western Connecticut State College and M.A. from San Francisco State University, with additional studies at Hunter College and Columbia University in New York, and the University of California, Berkeley.

Teacher and administrator in public and private schools for five years. Developed specialization in California legislative history through master's studies on higher education and legislative affairs.

Interviewer/Editor for Regional Oral History Office, 1978 to present.

Author of articles in professional journals.

Sarah Lee Sharp

B.A., University of California, San Diego, 1971, with major in history.

M.A., University of California, San Diego, 1975, with major field in United States history; Teaching Assistant in Comparative Americas, 1972-1975.

Ph.D., University of California, San Diego, 1979, with major field in United States history; dissertation entitled, "Social Criticism in California During the Gilded Age."

Interviewer-Editor for Regional Oral History Office, 1978 to the present, specializing in California political and legal history.

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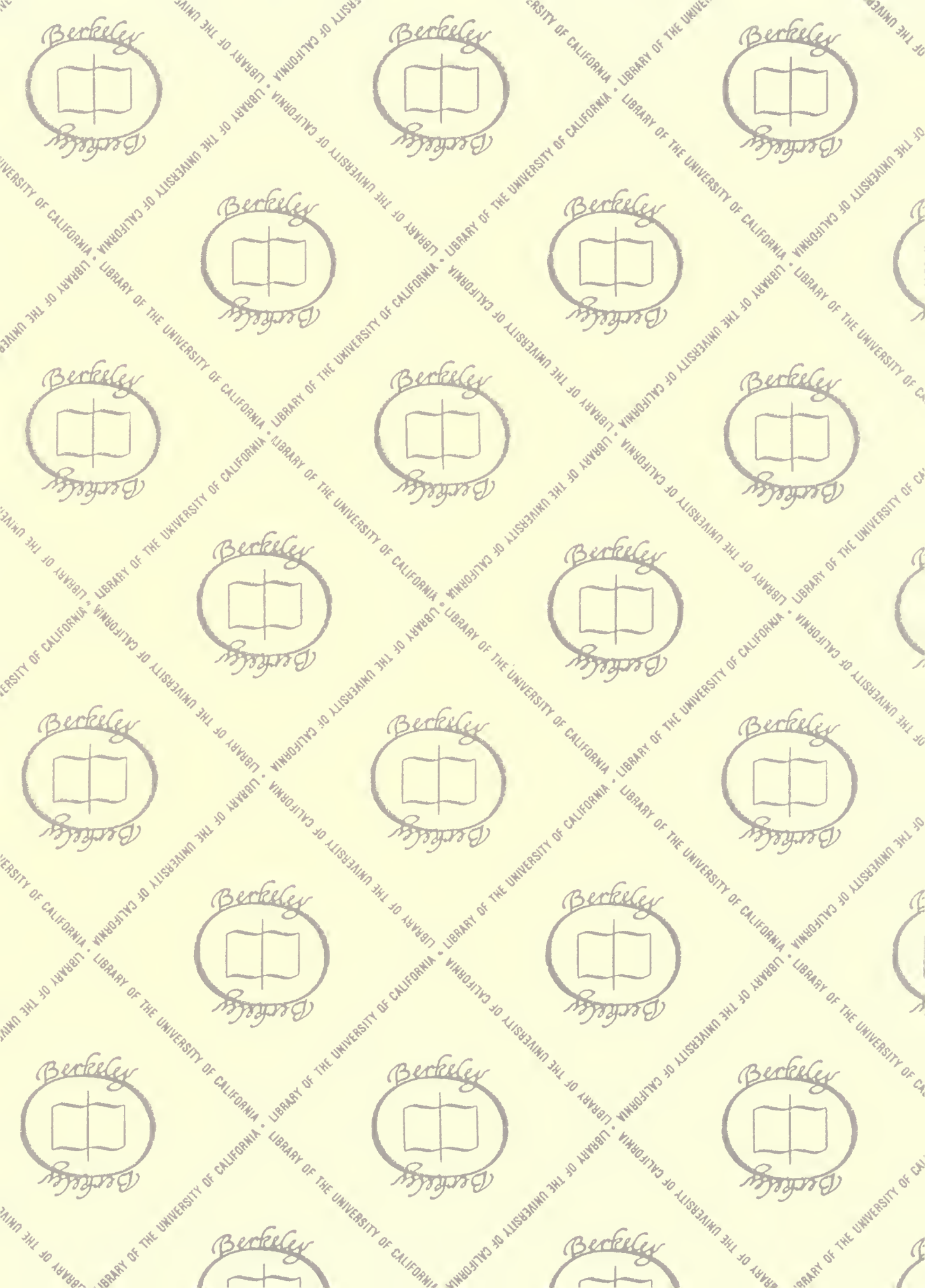
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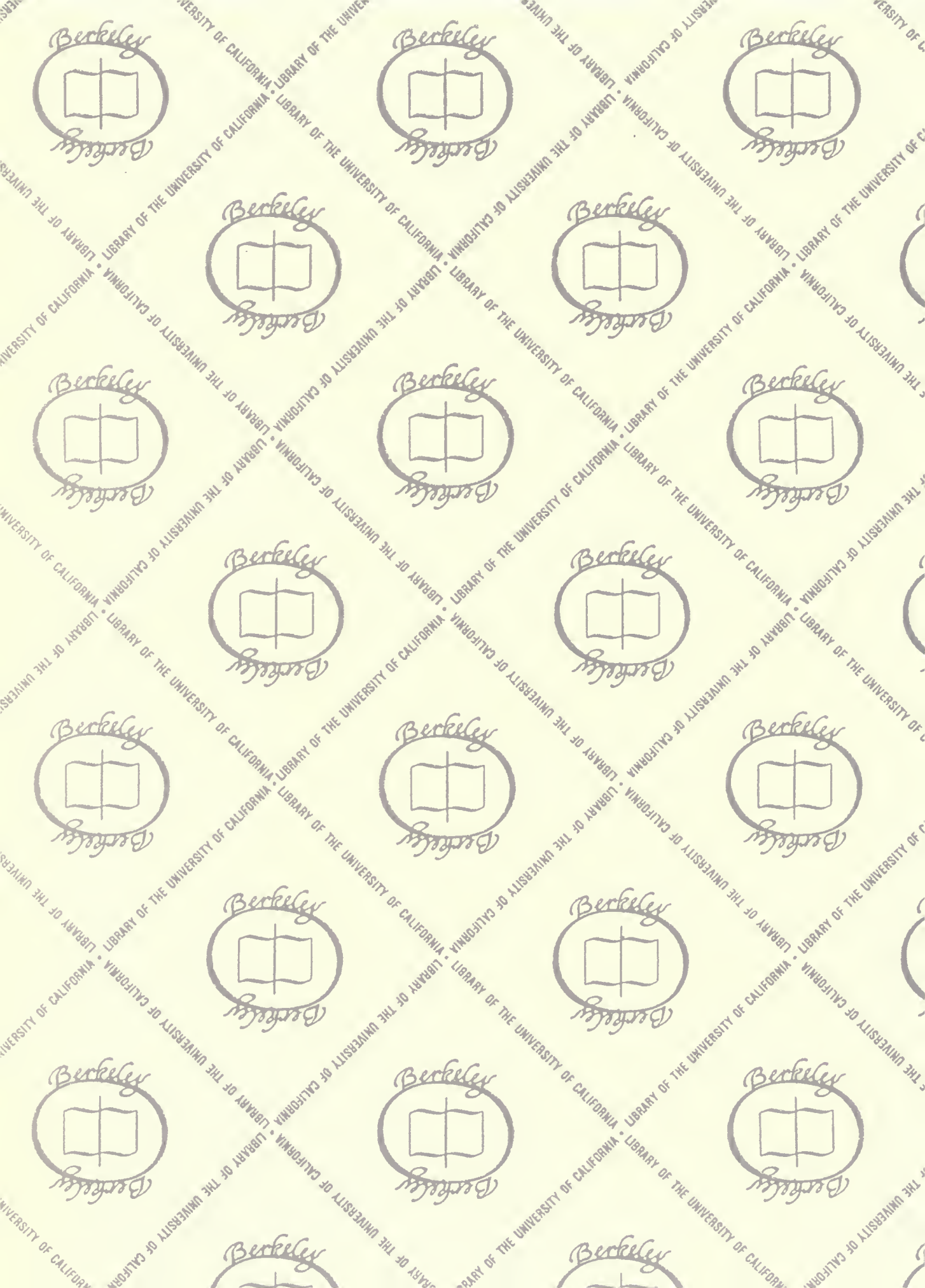
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